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STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
BOARD MEETING

GLENDALE CIVIC AUDITORIUM
1401 NORTH VERDUGO ROAD
GLENDALE, CALIFORNIA

TUESDAY, MARCH 20, 2001

9:40 A.M.

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1 A P P E A R A N C E S

2 BOARD MEMBERS PRESENT:
3 LINDA MOULTON-PATTERSON, Chair
 DAN EATON
4 STEVEN R. JONES
 JOSE MEDINA
5 MICHAEL PAPARIAN
 DAVID A. ROBERTI
6

7 STAFF PRESENT:
8 BONNIE BRUCE, Interim Executive Director
 KARIN FISH, Chief Deputy Director
9 KATHRYN TOBIAS, Chief Legal Counsel
 MARK LEARY, Deputy Director
10 YVONNE VILLA, Board Secretary
 DEBORAH MCKEE, Board Administrative Assistant
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1 P R O C E E D I N G S

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3 BOARD CHAIR MOULTON-PATTERSON: Good morning,
4 I'd like to call the meeting to order, please. Thank
5 you.

6 I'd like to welcome everyone to our March
7 meeting. And if at this time the secretary would call
8 the roll, please.

9 BOARD SECRETARY VILLA: Eaton.

10 BOARD MEMBER EATON: Here.

11 BOARD SECRETARY VILLA: Jones.

12 BOARD MEMBER JONES: Here.

13 BOARD SECRETARY VILLA: Medina.

14 BOARD MEMBER MEDINA: Here.

15 BOARD SECRETARY VILLA: Paparian.

16 BOARD MEMBER PAPARIAN: Here.

17 BOARD SECRETARY VILLA: Roberti.

18 (No response.)

19 BOARD SECRETARY VILLA: Moulton-Patterson.

20 BOARD CHAIR MOULTON-PATTERSON: Here. Okay. We
21 do have a quorum. At this time I will ask everyone to
22 please turn off your pagers and cell phones, we would
23 really appreciate that. Thank you.

24 Before we begin the meeting, I would like to
25 make a few brief comments about California's recent

1 energy challenge. I think we all realize after yesterday
2 how very serious it is. The Governor and the leaders of
3 the California legislature are working with utilities,
4 energy generators and consumer groups to forge a
5 long-term solution to this problem. As we experienced
6 yesterday, we will probably have rolling blackouts.

7 And at the Waste Board, we have implemented a
8 plan to reduce consumption by a minimum of ten percent
9 during critical power shortages. We're asking that you
10 too flex your power. To promote this message we've
11 placed a "Flex Your Power" logo right outside -- right in
12 front of me, okay. And we'd like this to just be a
13 reminder to all of us to do our part.

14 Given our commitment to conserve energy and
15 reduce waste, we're also providing a limited number of
16 copies of the agenda. And they are located, I believe,
17 at the back of the room, right at the entrance to the
18 room.

19 For those of you in the audience there are
20 speaker request forms on the back table also. If you
21 wish to address any item on the agenda, please fill out a
22 slip and give it to Ms. Villa who's right down here
23 waving her hand, and she'll make sure that we know of
24 your desire to speak.

25 At this time I'd like to call on our members for

1 ex-partes. Mr. Eaton.

2 BOARD MEMBER EATON: I have nothing to report.

3 I have a letter from Assemblyman Simitian, but that was
4 ex-partied yesterday.

5 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
6 Eaton.

7 Mr. Jones.

8 BOARD MEMBER JONES: Thank you, Madam Chair.
9 The same letter from Assemblyman Simitian. A letter from
10 Dr. Schwartz from Davis on tires. And then hellos and
11 small discussions with Sean Edgar, Terry Leveille,
12 Michelle Leonard, Bob Winters, and Carl Atkinson.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
14 Jones.

15 Mr. Medina.

16 BOARD MEMBER MEDINA: Correspondence from
17 Ricardo Martinez, Assistant Secretary of Board of Affairs
18 regarding the waste tire recycling program.

19 And also meet and greet Joe Montoya and Mike
20 Mohajer.

21 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
22 Medina.

23 Mr. Paparian.

24 BOARD MEMBER PAPARIAN: Yeah. Brief
25 conversations with John Cupps. And from VAS Recycling,

1 Jorge Sarquiez regarding crumb rubber and tire issues.

2 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
3 Paparian. And I have a letter from the Construction
4 Materials Association of California, their Executive
5 Director Linda Falsko on survey of mine reclamation
6 sites.

7 Also, the Board received a letter from CCDEH
8 regarding the PEP policy.

9 And also I visited Disneyland with members of
10 our staff to, and visited with Frank de la Vera and Donna
11 Baker to discuss the Southern California recycled
12 products trade show and their possible support.

13 And at this time I would like to say a big thank
14 you to the City of Glendale for your wonderful
15 hospitality. It's just been great and, to be here in
16 Glendale, it's a beautiful city, and we're really, really
17 happy we could be here.

18 And this was made possible by members of the
19 city council and staff. But I want to say a special
20 thank you to Ginger Bremberg, Councilwoman Ginger
21 Bremberg who put together a wonderful reception for us
22 last night and has made all of this possible. We really
23 appreciate it, Ginger.

24 And I'd like to introduce you now and have you
25 come forward and greet us.

1 MS. BREMBERG: Thank you. Good morning, Madam
2 Chair and Board members, and you've timed it very
3 properly, Senator.

4 BOARD MEMBER ROBERTI: Just in time for you,
5 councilwoman.

6 MS. BREMBERG: Just in time to hear the
7 profundities coming from an old garbage lady. I'm glad
8 you're here. I'm glad to say that again. It was about
9 thirteen years ago the last time the Waste Board met in
10 Glendale and nobody was terribly interested so we met in
11 the council chambers. Nowadays with all the new things,
12 it requires that we have a bigger room because you have
13 bigger responsibilities than the old Board did.

14 I'm the chair of the task force that was
15 required by law under 939. We're made up of a
16 cross-section of people who are, by and large, all
17 experts, and those who wish to be. And we discuss all
18 the things every month, keeping track of what the 88
19 cities and the counties are doing in Los Angeles County.
20 We cross-pollinate with San Berdoo and Ventura County and
21 Orange County so that we all know what we're doing.

22 The task force is very conscientious in abiding
23 by the law and doing the evaluations of the SRRE's and
24 all of the other documents that are required.

25 And I believe you all know exactly where we

1 stand on hoping that in combining flexing your power,
2 that you would be flexible in your treatment of (a) not
3 only the 88 cities in L.A. County, but the 58 counties
4 that all have different problems, different types of
5 solid waste, different types of recycling plans, and so
6 forth.

7 And if you didn't get this little newsletter
8 last night from Glendale, we do this as part of our
9 responsibility, and we're giving out free recycling bins
10 to commercials, two cubic yards or three cubic yards.

11 We're giving out, on top of our regular
12 composting we're now in the worm farming business, and
13 telling everybody how to do that, and what you can and
14 cannot recycle. We turn these out every three months so
15 that everybody gets it.

16 Glendale is a unique city in that we have our
17 own landfill; we have our own sanitation department; we
18 have recycling cans, solid waste cans and green waste
19 cans, 110 gallons automated, three pickups every week for
20 every residence and business in the city. And we charge
21 the residents \$10.10 a month, which makes us not very
22 popular with the commercial haulers, but we love them
23 too, they can come in and compete if they wish. Then, of
24 course, but the people still have to pay us besides their
25 bill for that.

1 We are trying desperately to meet every
2 requirement. We mine our landfill. Seven percent of our
3 fuel for our power plant comes from methane gas from Joel
4 Canyon Landfill.

5 And don't worry about blackouts, in Glendale you
6 won't have any. We are not part of this, what is
7 euphemistically called the state power plant. We have
8 our own power plant, we own substantial percentages of
9 other power plants across the United States. You will
10 not have power -- you can use as much as you wish, and if
11 you want to be careless and not turn the light out as you
12 leave a room you may leave it on because the hotel will
13 be paying the bill. But there will be power. When
14 squirrels gnaw through lines we have outages; when a
15 transformer blows up we have outages; but you won't have
16 outages on a general thing.

17 But because of our sticking to our SRRE we have
18 increased the amount of recyclables by 80 percent
19 compared to previous times. And that's very good
20 guidance, and we're delighted that everybody's feet are
21 aimed at the fire.

22 But please, once again, the task force has
23 worked diligently and thoughtfully and very, very
24 carefully analyzed all of the regulations. Our people
25 are so knowledgeable, and they recognize that you've got

1 a big job to do, but you can deal with 58 counties
2 equitably and with very good plans without punishing
3 others.

4 The one thing that we and maybe we're paranoid,
5 but we get the idea that L.A. County and the cities in
6 L.A. County are to be punished for some un -- for some
7 sin we didn't know we committed. But it seems that way
8 when we don't get responses to that we have and so forth.

9 I'm very sure that your being down here where
10 you can talk to the folks, the communication will
11 improve. We can cut through the staff level, and as a
12 16-year elected official at the municipal level, I know
13 exactly what can happen between the time someone makes a
14 request and the time it gets to the official that has to
15 make the final decision. Everybody has an opinion, and
16 at time it tends to creep into staff reports.

17 I would charge you with recognizing this, and
18 when you write your answers, don't let your personal
19 opinion creep in going the other way, because it confuses
20 and confounds us all.

21 But we do have wonderful staff people, you met
22 some of them last night. We have just an outstanding
23 sanitation department. And we are an independent city,
24 and we do make our own decisions under our charter, which
25 doesn't mean that we're any more right than a general law

1 city. We all have to deal together because the product
2 isn't going to get any smaller, it's what we do with the
3 product, and that's your problem.

4 And as I'm retiring from this veil of tears I'm
5 going to have to become a real citizen. I won't have to
6 sit and remember back in 1954 when I climbed into the
7 Mississippi River in Old Pig's Eye Island and the Swift
8 Meat Packing Plant, and scooped up a pale of guts,
9 excrement and blood, carried it up to the legislature; in
10 my innocence I thought, "Well, now the legislature will
11 take care of this awful thing." It was only a quarter of
12 a mile above the Minneapolis drinking water intake.

13 Senator Josephson who was from my home district,
14 six foot eight, patted me on the head and said, "Little
15 lady, go home and take care of your children, we will
16 take care of the river."

17 Well ten years later we shut down the, those of
18 us who became angry that day, shut down the Swift Meat
19 Packing Plant in the middle of the Mississippi River.

20 So if we stick to it long enough we can achieve
21 something. I've stuck to it long enough, I haven't
22 achieved as much as I wanted to, but I'm passing the
23 torch to you.

24 And again, welcome to Glendale. Thank you for
25 coming.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you so
2 much, Ginger.

3 (APPLAUSE.)

4 BOARD CHAIR MOULTON-PATTERSON: I know I speak
5 for the entire Board when I say we really appreciate all
6 your years of commitment and your encouragement and your
7 positive attitude. Thank you very much, we appreciate
8 it.

9 Senator Roberti, did you have any ex-partes?

10 BOARD MEMBER ROBERTI: Yes. But before I get to
11 the ex-partes, I would like to join you, Madam Chair, in
12 simply commending Ginger Bremberg for being a true
13 forward-looking pioneer in the area of conservation and
14 waste reduction.

15 And I've enjoyed my many conversations I've had
16 with her since I've become a member of the Board. She
17 has a wealth of knowledge, and I hope in her retirement
18 she only retires with a little R, and you're still going
19 to be around for advice.

20 On ex-partes, yes, I do have a number of people
21 that I met with yesterday, and I'll just give 'em to you.

22 Seymour Schwartz, well that was not yesterday,
23 that was on March 7th on MELP restarting.

24 Dave Mora for the new base year studies on March
25 13th.

1 Joseph Simitian on the five year tire plan on
2 March 15th.

3 Chuck White of Waste Management on PEP.

4 On March 16th Justin Malan regarding PEP, on
5 March 16th.

6 On March 19th Leslie Lucash and Michelle Leonard
7 regarding public venue recycling.

8 Assemblyman Joe Sinui -- Simitian, excuse me,
9 five year tire plan.

10 Councilwoman Eileen Ansari, the Conference by
11 Southern California Council on Economic and Environmental
12 Development, we discussed that, which will be taking
13 place in the City of Diamond Bar.

14 Oh. Well, since I'm being extra cautious, I
15 spoke to Emmon Tobias on Sunshine Canyon. Our counsel is
16 here so she would know that I spoke to her son.

17 Then I spoke to, yesterday, to the young man in
18 charge, I'll have to get their names, the young man in
19 charge of the Glendale's multi-unit recycling, and the
20 two members of Glendale's public works programs which I
21 would just like to enter into the minutes, and we'll
22 formally do so with the names when I have it.

23 And I was delighted to speak with the mayor of
24 Glendale regarding general Glendale recycling programs
25 introduced to me by Councilwoman Bremberg.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you,
2 Senator Roberti. We'll move on to our reports and
3 presentations.

4 Any report, Mr. Eaton?

5 BOARD MEMBER EATON: In the interest of time,
6 nothing at this time.

7 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

8 BOARD MEMBER JONES: Just one quick one. The
9 landfill operator training program, the second stage of
10 it which is the workshops that are being held with
11 participation from both landfill operators and LEA's -- I
12 think there have been four, I may be wrong -- but all the
13 reports that I'm getting is that LEA's see incredible
14 value in having Neal Bolton explain parts of the
15 operations that they maybe hadn't been familiar with, and
16 operators are finding it helpful to find out what the
17 LEA's need to see when they're at the site.

18 So I want the Board to under -- to be aware of
19 that. I think there's eight more or seven more workshops
20 being held. I know there's one either today or tomorrow
21 in Orland. But I think that the contract dollars are
22 being well used because people are starting to understand
23 both sides of the issue.

24 So I wanted to just let the Board members know
25 about that.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.

2 Jones.

3 Mr. Medina.

4 BOARD MEMBER MEDINA: Madam Chair, since our
5 last Board meeting I made three presentations to
6 California Indian tribes. I made a presentation at
7 Crescent City to the Northern California Annual Gathering
8 of Tribes; at Lake Tahoe to the Central California
9 Tribes; and at Hemet to the Southern California Tribes
10 regarding the services and programs of the California
11 Integrated Waste Management Board.

12 Included in the presentation was an appeal for
13 their participation and attendance at the second annual
14 recycled product trade show. This is important because
15 according to an article that appeared in the "Riverside
16 Press" on March the 12th, 2001, "Indian tribes in
17 California are anticipated to have an expansion of
18 approximately two billion dollars this year."

19 By working in a cooperative government to
20 government relationship, the Board can significantly
21 impact the use of recycled products as the tribes expand
22 their businesses.

23 Also in discussions with the tribes, several
24 other issues were raised in regard to environmental
25 concerns; the dumping of used and waste tires on Indian

1 lands. The number of tires that have been illegally
2 dumped on Indian lands has yet to be inventoried, but
3 according to the tribes this is a significant problem
4 across the state.

5 Tribal lands used as illegal dumping sites.
6 Disposal of used oil, household hazardous waste concerns.

7 So this presents a tremendous opportunity for
8 the Board to work cooperatively with the Indian tribes as
9 they move to clean up Indian lands and also to make
10 greater use of recycled content materials.

11 And that concludes my report.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
13 Medina. We appreciate all of your hard work and efforts
14 with the Native Americans. Thank you very much.

15 Mr. Paparian.

16 BOARD MEMBER PAPARIAN: Thank you, Madam Chair,
17 I wanted to mention several things this morning.

18 I had the opportunity a few weeks ago to visit a
19 crumb rubber facility Barry Takallou's facility down in
20 Compton, and was struck by the amount of crumb rubber
21 that he had in a huge warehouse just waiting to be used.
22 It was so full that he was likely to have to shut down
23 production lines because of there not being enough of a
24 demand out there for California crumb rubber.

25 And as we heard a few weeks ago, this was

1 compounded by, this problem was compounded by the
2 importation of crumb rubber from Canada and other
3 sources.

4 I also had the opportunity to visit the Sunshine
5 Canyon facility, had an interesting tour of that
6 facility, and I also at the same time met with some of
7 the local residents of the North Valley Coalition to talk
8 about some of their concerns about the Sunshine Canyon
9 facility.

10 And I also wanted to mention electronics waste
11 which is, as you know, taking up a lot of my time and
12 energy. We've been having some very fruitful discussions
13 with the Department of Toxic Substances Control over the
14 potential toxicity of electronics components. And our
15 staff has been working with the staff of the, of DTSC and
16 looking at some of these issues and what some of the
17 implications may be ultimately for some of our programs.

18 And I also wanted to thank our staff, they've
19 really been coming together on this electronics waste
20 issue from all the divisions; from waste prevention and
21 market development, they've been working on a website and
22 list of reuse and recycling facilities, as well as state
23 procurement guidelines for electronics equipment, Jeff
24 Hunts and Terri Cronin have been working on that effort
25 in that division.

1 Over on the Special Waste Division they've been
2 working on the statewide E waste study which we voted on
3 last month, as well as household hazardous waste grants
4 for electronics. And Mitch Delmage and Shirley
5 Willd-Wagner have been working very diligently over
6 there.

7 In the P and E area there's some work in terms
8 of development of an LEA advisory on toxicity of
9 electronics, as well as responding to other issues that
10 are being raised by LEA's regarding electronics. Sharon
11 Anderson and Sue Happersberger and Mindy Fox are working
12 on that over there.

13 And finally, over in the policy area working on
14 the CRT legislation has been Claudia Moore. And then I
15 should also mention that Michael Miller has been working
16 hard on some potential legislation in this area.

17 So I think our staff has really been coming
18 together on this, and I wanted to publicly thank the
19 staff for taking up this issue and working so hard on it.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
21 Paparian. We really appreciate all your efforts and the
22 efforts of our staff on the E waste issue which is so
23 important.

24 Senator Roberti.

25 BOARD MEMBER ROBERTI: Thank you, Madam Chair.

1 Yes, since our last meet I'd had a number of site visits
2 that I'd like to mention.

3 February 23rd I visited in the City of Irwindale
4 Nu-Way Landfill. That is a former gravel pit that is now
5 becoming a landfill with construction and demolition
6 materials.

7 The crushing company which I visited do some
8 interesting work at the landfill segregating construction
9 and demolition materials, some to be used in the
10 landfill, but their primary business is then to reuse the
11 demolition product and construction programs within the
12 general area. So it's not only a landfill and a
13 recycling center, but also a place, a convenient location
14 where construction and demolition material can be sent
15 out for reuse.

16 I visited last week United Waste Recycling and
17 Transfer Station in the City of Industry as well as one
18 of the largest of our recycling operations. They've
19 extended an invitation for the Board members at any time
20 to go visit their operation, and it seems to me to be a
21 very progressive and one which tries to get the maximum
22 particular kind of product out of the waste stream. I
23 think they segregate 30 to 32 separate kinds of items
24 with people selected to do specific and selective
25 segregation out of the waste stream as the huge amount of

1 waste goes through both the transfer and recycling
2 center.

3 I visited two of our RAP award winners, Lithco
4 in Culver City who do an excellent internal job of
5 recycling, reprocessing all of their business products
6 that they use within their own internal operations,
7 especially the packing materials that they use. And they
8 quite properly, after visiting them, did deserve one of
9 our RAP awards. And it was good to see their enthusiasm
10 as well in using the RAP award to promote themselves,
11 which is the whole idea of getting people enthusiastic
12 about the RAP award.

13 And on March 9th I visited the Cottura Ceramic
14 Art Imports in Century City, truly one of the more
15 interesting visits I've ever had. They import Italian
16 ceramics, handmade Italian ceramics in California.
17 They're one of the larger importers of Italian ceramics,
18 beautiful things they import.

19 They recycle all their packaging products.
20 Their owner is an enthusiastic environmentalist who on
21 his own engages in all kinds of recycling and reuse down
22 to the smallest packing product that they may have in
23 order to reuse it.

24 But one of the most interesting things I noticed
25 is, as you know, ceramics break and they really break in

1 earthquakes. So they had lots of broken ceramic. And
2 they commissioned a art instructor to help them create
3 new art works out of the broken works. And the new art
4 pieces which they put together were almost as beautiful
5 as the ceramics that were broken.

6 And it was just another way of saying that
7 recycling can be beautiful as well as functional. And it
8 was just exciting to see, they were excited about it, and
9 it was truly beautiful. It was like taking a tour of a
10 museum as well as doing my job.

11 BOARD CHAIR MOULTON-PATTERSON: Thank you,
12 Senator Roberti.

13 I'd just like to report that I had the privilege
14 of attending the SKAD meeting on February 23rd, and I was
15 able to hear Kay Martin's presentation on conversion
16 technology. It was very interesting.

17 On February 25th I gave the opening remarks to
18 our Used Oil Forum in the City of Ontario. And I want to
19 say thank you to all of the staff that put that together,
20 it's a great event.

21 March 5th through 7th I was able to meet with
22 the Secretary of Transportation Norm Manetta and talk
23 with him about rubberized asphalt, as well as Orange
24 County Transportation Authority officials and the
25 Transportation Quarter Agency officials.

1 Also on March 8th I attended the, and spoke to
2 the Public Works Officer Institute in Monterey.

3 And as I reported in my ex-parte, I do want to
4 say thank you to Patty Wohl and Bill Orr for a great
5 meeting at Disneyland. There's great enthusiasm about
6 our Southern California recycled trade show, and so we're
7 really excited about that, possibly next April.

8 With that, I would like to turn it over to our
9 Executive Director, Ms. Bruce.

10 INTERIM EXECUTIVE DIRECTOR BRUCE: Thank you so
11 much. I'd just like to bring you up to date on a couple
12 of items.

13 First of all, preparations are in full swing for
14 our second annual recycled product trade show which will
15 be April 11th at the Sacramento Convention Center. Right
16 now we have about a hundred exhibitors signed up, and
17 it's about the same amount that we had last year. Our
18 goal was to have about 175. So we'd like to encourage
19 you, if you know some people that might be interested in
20 exhibiting, to encourage them to do so. Our staff is
21 madly working to try to fill those remaining exhibit
22 spaces.

23 Exhibitors or attendees can register on-line for
24 the trade show, and our website is:

25 www.buyrecycled2001.iconvention.com.

1 I know how important it is to get those dots in.

2 Just to again reemphasize the meeting that we
3 had yesterday at Disneyland and their enthusiasm for
4 wanting to partner with us for a trade show in Southern
5 California next year.

6 As most of you know, there's a lot of money out
7 there being spent on construction of schools. And so our
8 collaborative for high performance schools is hard at
9 work, and I just want to give you a very quick update on
10 that.

11 You heard last week at the strategic plan
12 internal workshop that there is a new brochure, and I
13 know we provided it to all of your Board offices called
14 "Tools for Schools." And this was introduced at the Cash
15 conference early this month.

16 In addition, there is now a "Best Practices
17 Manual," "Chip's Best Practices Manual." And this was
18 distributed at the conference, it's available in CD rom
19 format, and over fourteen hundred school district
20 officials, architects, and other school facility
21 supporters attended the event.

22 I had the opportunity to attend when it was in
23 the Orange County area, and I will tell you that the
24 information and the excitement there is exciting, and to
25 know that we are a very active part in this.

1 Some of the sessions that really are, I think
2 you're going to be hearing more and more about, have to
3 do with the planning of the schools for the future;
4 daylighting and school performance; how to comply with
5 the Healthy Schools Act; Going Green and what that means
6 for sustainable schools; and we recently invite you to
7 visit, I got to speak to a school Board member from the
8 Newport Coast Elementary School, and she's hoping when
9 anybody is in Southern California will come to visit that
10 school and all that they're doing there.

11 And also the "Million Solar Schools." This is a
12 panel discussion about ways to look at alternative ways
13 to fund energy.

14 I think of most interest to you because the
15 Waste Board is taking the lead in this effort, and I do
16 want to thank Andrew Hurst from our staff, and also the
17 staff from Mr. Eaton's office as well as Senator
18 Roberti's office in their helping us to come up with the
19 new building Waste Reduction Program.

20 On March 27th the Waste Reduction Program will
21 be implemented in the California EPA headquarters
22 building. To promote the opening of this program, there
23 will be a staff exhibit in the building lobby for three
24 days. Workshops will be held on March 29th, and there
25 will be several all staff e-mail messages that will go

1 out to all of the BDO's.

2 Very much we want to make sure that the program
3 that has been designed is as convenient as possible, but
4 maximizes resource efficiency. We're trying to make sure
5 that it really patterns, much like the program that we
6 had on the third floor when we were at Cal Center Drive.

7 Very briefly let me just tell you what the
8 program is going to feature, because I know it's very
9 important to all of your offices, at one time or another
10 I know I've interfaced with each and every one of you
11 about this.

12 The goal of the building management is that when
13 all programs are in place, I think I misspoke at the all
14 staff meeting we had and said that we are now presently
15 recycling 95 percent of our materials, but the goal is
16 that when all of the programs are in place, that we will
17 be recycling at the 95 percent level, and we will be
18 watching that carefully.

19 With the program that's planned right now is,
20 number one there will be a mixed paper collection. You
21 need only place your container or your old waste basket
22 in the hallway whenever you want it to be emptied, and it
23 will be.

24 There will be a white paper collection, and you
25 can keep that separate from the mixed paper. And then

1 there will be a place you can take that for the white
2 paper.

3 There will be corrugated cardboard recycling.
4 And these pieces must be flattened, but there will be a
5 place for you to put those pieces of cardboard.

6 Bottles and cans, glass, plastic, or metal can
7 be taken to a centrally located container, and these
8 containers will be in all of the breakrooms and other
9 convenient locations.

10 Employees will be responsible for taking their
11 own garbage to one of the centralized garbage containers
12 located throughout the floor. And waste prevention will
13 be the main theme. The theme is going to be "Gone Today
14 Here Tomorrow, Recycle," and it's referring to the closed
15 loop created by recycling and then the purchase of
16 products with recycling material content.

17 As you're aware, the state statute requires that
18 we purchase recycled products, and we anticipate that the
19 Thomas Group and the Evergreen Cafe will be implementing
20 buy recycled programs in their daily operations.

21 We're leading the way, and so we're expecting
22 that other BDO's will be watching what we are putting in
23 place. And we're hoping to incorporate as many new and
24 innovative waste strategies that we can.

25 We really look forward to your participation in

1 giving us feedback as to what you hear and how you feel
2 it's working so that we can adjust as we go along so that
3 we can, in fact, meet that 95 percent goal.

4 Very quickly, the Cal EPA Basic Inspector
5 Academy is beginning to happen and it's, this is in
6 keeping with the mission and vision that Cal EPA is
7 starting a new pilot certification training program for
8 inspectors.

9 The purpose of the quarterly two week basic
10 inspector academy is to reinforce fundamental inspection
11 skills, and to provide information on other Cal EPA
12 environmental regulatory programs and activities.

13 John Bell from the Board's Permitting and
14 Enforcement Division is participating both as a presenter
15 and evaluator during this pilot program.

16 Just a quick mention about the SB 2202 working
17 groups. Our quest for volunteers was quite successful.
18 The working groups are comprised of approximately 60
19 representatives of jurisdictions, waste management
20 industry, consultants and universities, as well as our
21 Board member advisors. Approximately forty people have
22 requested reviewer status so that they can review the
23 materials and provide their input into the working
24 groups.

25 The three working groups are the disposal

1 reporting system, the adjustment method, and alternatives
2 to the existing system, and they have met in early March.
3 The focus was to identify any issues in addition to those
4 discussed at the Board workshops on January 25th and
5 31st.

6 The second meetings are going to be held here in
7 Southern California in early April, and staff will
8 present any overview of the issues discussed at our April
9 Board meeting, we'll give you an update there.

10 So we are excited about all of the activities
11 that are going on at the Board, and thank you for your
12 support in those projects with us. Thank you.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.
14 Bruce. Okay. Any questions?

15 Seeing none, we'll go on to our agenda. I just
16 want the public and the Board members to know that item
17 fourteen has been pulled. Item 26 has been continued per
18 the request of the City of San Diego and will be heard in
19 April.

20 We will be having a brief closed session
21 tomorrow at noon if that's agreeable with all the Board
22 member's time schedule.

23 And items number four, twelve, thirteen,
24 seventeen, and eighteen have been placed on the consent
25 agenda.

1 Would any member, Board member wish to pull any
2 of these items from consent?

3 Mr. Eaton.

4 BOARD MEMBER EATON: I'd like to pull item
5 number seventeen from the consent.

6 BOARD CHAIR MOULTON-PATTERSON: Okay. Item
7 seventeen pulled by Mr. Eaton.

8 Anything else? Okay. Do we have a motion for
9 the remainder of the consent calendar which would be
10 four, twelve, thirteen and eighteen?

11 BOARD MEMBER MEDINA: Madam Chair, I'd like to
12 move those items.

13 BOARD CHAIR MOULTON-PATTERSON: Moved by Mr.
14 Medina.

15 BOARD MEMBER JONES: I'll second it.

16 BOARD CHAIR MOULTON-PATTERSON: Seconded by Mr.
17 Jones. Would the secretary please call the roll?

18 BOARD SECRETARY VILLA: Eaton.

19 BOARD MEMBER EATON: Aye.

20 BOARD SECRETARY VILLA: Jones.

21 BOARD MEMBER JONES: Aye.

22 BOARD SECRETARY VILLA: Medina.

23 BOARD MEMBER MEDINA: Aye.

24 BOARD SECRETARY VILLA: Paparian.

25 BOARD MEMBER PAPARIAN: Aye.

1 BOARD SECRETARY VILLA: Roberti.

2 BOARD MEMBER ROBERTI: Aye.

3 BOARD SECRETARY VILLA: Moulton-Patterson.

4 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay. The
5 consent calendar is adopted.

6 And we have, for the first time in a number of
7 months we have no continued business agenda items, so
8 that will take us right into our new business agenda
9 items.

10 Number one, and Mr. Leary, we'll turn it over to
11 you.

12 MR. LEARY: Thank you, Madam Chair. Mark Leary
13 representing the Special Waste Division. Agenda item one
14 will be presented by Martha Gildart, branch manager of
15 the Tire Management Branch.

16 MS. GILDART: Good morning, Madam Chair and
17 members. Item one is consideration of approval of
18 proposed scoring criteria and evaluation process for
19 fiscal year 2001/2002 tire recycling grant program, local
20 government public education, and amnesty day grants.

21 I'm presenting the criteria for the third cycle
22 of grants that are specifically offered to local
23 governments to conduct amnesty days as a collection
24 method for waste tires.

25 This year staff recommends setting the grants at

1 a maximum of \$20,000 per grant, reducing the required
2 match from past years to only fifty percent of the
3 Board's offer, and allocating a total of \$500,000 in
4 funding.

5 In comparison, the first cycle was funded at
6 \$176,000; the second, after monies were added to it
7 through a reallocation process, was funded at \$374,000.

8 The criteria we're presenting today have been
9 slightly modified from the previous cycle. In the
10 general criteria, as approved last year by the Board, we
11 have included the requirement for evidence of a recycling
12 content purchasing policy slightly broadened from earlier
13 years.

14 The program criteria have been modified with
15 inclusion of a tire disposition criterion which will
16 award ten points for those communities taking their tires
17 to a recycling or reuse; seven points for those doing
18 energy recovery with the tires; three points for those
19 who use the tires at a landfill, for instance,
20 alternative daily cover or leachate collection medium;
21 and zero points for those who are merely disposing them
22 at a landfill. There are a hundred points total
23 available, and it requires a minimum of seventy points
24 for funding.

25 This grant program has been popular with local

1 governments in the past. It provides needed funding for
2 the collection of waste tires before they become
3 illegally disposed.

4 An important component of the program has been
5 funding for educational materials, often multilingual,
6 which are used to notify the public of the event itself,
7 as well as how to properly maintain and use their tires,
8 and how to properly dispose those tires when they've
9 reached the end of their useful life.

10 At this point we are ready to take any questions
11 or direction.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.
13 Gildart.

14 Mr. Eaton.

15 BOARD MEMBER EATON: Yeah. Ms. Gildart, can you
16 explain to me what the difference is between category
17 five, budget, and category ten, cost per tire? They seem
18 to be one and the same.

19 MS. GILDART: Okay. The budget includes the
20 overall costs which would be staging the event, public
21 education materials, actual handling of the tires and
22 disposal of the tires.

23 The item number ten, criteria number ten looks
24 only at the costs for handling and disposal or reuse of
25 the tire. And it's part of the statutory requirements,

1 in conducting a grant program the Board is to consider
2 the cost per tire of any of the grants awarded.

3 BOARD MEMBER EATON: So if you have a low budget
4 you're more inclined to get a grant than a higher budget
5 with number five?

6 MS. GILDART: Number five.

7 BOARD MEMBER EATON: I understand the cost per
8 tire, I think that's a good thing.

9 MS. GILDART: Okay.

10 BOARD MEMBER EATON: I'm just trying to
11 understand as we move in because my understanding is that
12 the criteria for these grants are going to be if and when
13 our report is approved and the legislature approves our
14 expenditures. So this would be with the next cycle of
15 grants, is that correct, where there is money available?

16 MS. GILDART: Yeah, we are still trying to get a
17 jump start on some of the effort in conducting the new
18 program under SB 876.

19 Because there were no grant funds available in
20 the current fiscal year due to having only six months
21 left from the old fee, what we're trying to do is get
22 some of the paperwork, the administration work out the
23 door as early as possible with the idea that actual
24 funding commitments will not be made until after next
25 fiscal year's budget is approved by the legislature. And

1 that is going to be part of the materials made available
2 to any potential applicants.

3 The criteria number five on budget is part of
4 the Board's general criteria that have been adopted by
5 the Board in their entirety to be applied to all grant
6 programs equally.

7 Now obviously there are some variations from
8 grant program to grant program where the staff need to
9 apply that criterion slightly differently. With the
10 budget what we're trying to look at is what has the
11 community done to maximize its ability to use these
12 monies to reach the widest audience and collect the
13 largest number of tires. It's our best way of applying
14 that general Board-wide criterion.

15 BOARD MEMBER EATON: One other, or a couple of
16 other questions. With regard to category number six,
17 completeness letters of support and experience. I notice
18 that you give that, with the exception of need, the
19 largest number of points to be eligible. Are we giving
20 them points for being able to fill out the proper forms
21 and therefore they get extra credit? Letters of support
22 as opposed to some of the either items which are tire
23 disposition, cost of tire recycling and.

24 Procurement? I'm a little confused about the
25 weighting and the mindset as to going into the weighting

1 that if you're able to complete the form correctly you
2 get more points than how you actually deal with the
3 material.

4 MS. GILDART: We have, from past experience,
5 seen applications that were less than complete. I'm not
6 sure if it was a lack of understanding of the materials
7 we made available or what, but this is our attempt to
8 draw their attention to the importance of filling out the
9 application correctly, having the information there,
10 making the required number of copies so that the Board
11 does not then have to make the copies.

12 There have been some difficulties in the past.
13 If the Board feels that this is somehow discriminatory,
14 of course we can change that point distribution.

15 BOARD MEMBER EATON: I would propose at the
16 appropriate time that we change the number of points
17 awarded. The other question is, could you explain to me
18 in item number ten, tire disposition, energy recovery,
19 what is your definition of that? Is that for cement
20 plants?

21 MS. GILDART: It could be anything --

22 BOARD MEMBER EATON: Electricity? Is it for
23 cogen? What is it?

24 MS. GILDART: All of the above.

25 BOARD MEMBER EATON: And what if there is no

1 availability of those services in a particular area?
2 What if the cost of transportation is so great to get it
3 to market, will they be penalized, for instance, if
4 you're in the north or in the extreme south to get to the
5 market it's going to cost you more?

6 MS. GILDART: There are a variety of recycling
7 markets available statewide, but yes, that could be a bit
8 of a difficulty for some of the more remote communities.
9 Perhaps they could look at methods to use those tires
10 themselves within the community, whether -- we have seen
11 innovative uses in structures and civil engineering at
12 landfills. There's a variety of uses they might have
13 recourse to.

14 It is an attempt to carry out the Board's
15 direction in past years in programs on implementing the
16 Board's hierarchy. This was the staff proposal on what
17 we thought could be weighted with the points. If the
18 Board wishes we can alter those points.

19 BOARD MEMBER EATON: So just to repeat, your
20 definition does include cement plans, does include cogen
21 as well?

22 MS. GILDART: Yes.

23 BOARD CHAIR MOULTON-PATTERSON: Anything else,
24 Mr. Eaton?

25 BOARD MEMBER EATON: No. I would just propose

1 that we look hard and fast and change the number of
2 points weighted to filling out our forms and documents
3 and letters of support and put them in other categories,
4 whether they be tire disposition, recycling programs. I
5 think that's really where we're looking, I think, to
6 move, especially in light of the fact that, with
7 experience describe past grants.

8 So in other words, if you have a past grant,
9 does that help you or hurt you in this category of number
10 six? You know, sometimes we've eliminated individuals
11 that have had past grants, so in this instance does it
12 help you or hurt you that you've had past experience?

13 MS. GILDART: In this case it would help you.

14 BOARD MEMBER EATON: Isn't that, and I'm not
15 being critical at you, but isn't that kind of being
16 discriminatory in the sense that this is a new program,
17 this is new monies that are going in. We under SB 876
18 were asked to expand our local amnesty grant program.

19 If we weight our factors on those who've had
20 prior experience, and yet we are creating a program
21 legislatively and regulatorily that would increase the
22 pool, it's discrimination by definition that those
23 individuals who would be wanting to compete, because
24 obviously that was the whole idea of 876 was to get more
25 money out to the local arena, that the locals are being

1 penalized by the fact that they may not have been able to
2 participate in the past.

3 And that's what I'm trying to eliminate. Do we
4 have to even have the past experience as a criteria given
5 the fact that we have a new program and a new way of
6 dealing with the monies?

7 MS. GILDART: It does give an indication of the
8 applicant's ability to conduct the grant properly. Often
9 if they have had experience with the Board's grants
10 programs in the past they're a little more able to carry
11 them out. If the Board dislikes that application of the
12 criteria, we can take instruction.

13 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

14 BOARD MEMBER JONES: Question for Mr. Eaton. If
15 we were to take number six from fifteen down to ten,
16 because I think that is important that they complete 'em,
17 we've seen 'em come in and appeal grants because they
18 didn't fill out the forms, and wanted us to do that.

19 So maybe if we take that point total from
20 fifteen to ten, and we add five to item number two, which
21 would be objectives to go from ten to fifteen; because I
22 think clearly 25 points is correct for the need, but I
23 think fifteen points for the objective that would have,
24 you know, the work statement and proposal are
25 sufficiently detailed, and it's based on identified need,

1 it's based on measurable goals and objectives, and it
2 demonstrates that the objectives can be achieved within
3 the timeframe allowed. Maybe that's a performance-based
4 criteria that would make sense to me that --

5 BOARD MEMBER EATON: Right, I would agree that
6 we would reduce number six. I'd like it reduced to
7 number five, and we take five and put it in number two,
8 and then drop down to the other category; because after
9 all, the categories that begin with eight, nine, and ten
10 are the end use and the productive reuse of the
11 components, is it not? I mean that's the programmatic
12 aspect of it.

13 Criteria one through seven really deal with
14 general criteria, that gets your eligibility and gets you
15 through the door. It's really how you promote the end
16 uses, the productive and beneficial uses.

17 And therefore what I'm saying is that what we
18 do, the completeness is five, it's overly weighted, and
19 we eliminate the fact of the past experience, because
20 this is going to be a new program that's expanded.

21 I'd hate to see a local jurisdiction for one
22 reason or another has a tire problem, or a local, you
23 know, cleanup day, and because of past experience isn't
24 able to participate.

25 What we want to be is more inclusive in this

1 arena since the money, in my understanding, is going to
2 be increased in this area. So what we do is put five,
3 reduce six to five; put your five, you said number two, I
4 think, Mr. Jones, in objectives?

5 BOARD MEMBER JONES: Right.

6 BOARD MEMBER EATON: And then increase either
7 number nine or number ten by an additional five. And I
8 would say number nine simply because it deals with reuse
9 and beneficial and those kinds of aspects.

10 BOARD MEMBER JONES: So take nine up to fifteen?

11 BOARD MEMBER EATON: Right.

12 BOARD MEMBER JONES: And I think that that's
13 reasonable. I think one thing we're going to find out in
14 these, one of the things that the manifest system is
15 going to give us as well as this amnesty program, is not
16 only identify where the small tire piles are and where
17 the amnesty events are, but where the markets are.

18 So by adding fifteen -- or number nine, making
19 that fifteen, probably makes sense. But the one down
20 side may be those rural jurisdictions that may be so far
21 away from markets that they are ultimately going to have
22 to landfill or use as ADC, because they won't have
23 available markets for the others. And they're, that may
24 be an audience that we're going after, and they may be
25 penalized because there's zero points for landfilling

1 even though it would be cleaning up tire piles. So we
2 can try.

3 BOARD MEMBER EATON: Well we could change the
4 number of points in that situation where there's no
5 alternative, right?

6 BOARD MEMBER JONES: That makes sense.

7 BOARD MEMBER EATON: I mean what you're saying
8 is if there's no option, there needs to be a default
9 position, and we've had that happen.

10 BOARD MEMBER JONES: Exactly.

11 BOARD MEMBER EATON: And that's happened in
12 Georgia and other places where they've done this kind of
13 work only to realize there is no default position. And
14 so I think what you need is a default position within
15 that category, I agree with you.

16 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

17 BOARD MEMBER JONES: Madam Chair, I like that
18 idea. I think that one of the, on of the ideas is
19 hopefully with these amnesty groups would provide some
20 tires in the flow to get some of these tires to some
21 markets.

22 So I would suggest, and I would ask if it's
23 possible, under category nine if a rural jurisdiction
24 says, is interested in putting in a bid or a grant
25 proposal, would it be or should it, does it need to be

1 talked about today that we provide information of
2 available markets in those regions, so that they can
3 identify some regional markets? And if there are no
4 regional markets anywhere, and they've taken some kind of
5 a, they've put, they've disclosed what their
6 transportation would be to get it to markets, could that
7 be part of the presentation highlighted so that we
8 understand where there are and are not markets?

9 ADC could or could not be used in some
10 jurisdictions, it depends if there are shredders anywhere
11 in the area. They may have to transport 'em further down
12 the highway. But I think we need to, I think we at least
13 have to have in this grant criteria a line of description
14 of availability to markets in certain rural applications
15 so that they can at least identify where they have looked
16 to market those materials.

17 MS. GILDART: We could include that, but I think
18 we'd also need some direction on what was acceptable,
19 like how much an increase in their costs that would give
20 them, you know.

21 Is there a, I'm thinking, as you remember in the
22 cleanup contracts we did a few years back, there was a 30
23 percent cost differential on recycling versus disposal.
24 I think if we were to include this sort of disclaimer
25 that a community could show the lack of available

1 markets, we need to have a standard that they would meet
2 to, you know, what extra cost it would be to have done
3 that or not. Is that possible?

4 BOARD MEMBER EATON: It may be one of the ways
5 to do it. Because under that criteria zero points for
6 landfilling, and I'm not advocating that we landfill
7 tires, anyone who knows me knows that's not where I'm
8 coming from, but under that criteria the Board's own
9 efforts at the Wesley tire fire would not have qualified,
10 isn't that correct, because we buried those tires in the
11 landfill?

12 MS. GILDART: The ones that had been badly
13 singed and burned, yes.

14 BOARD MEMBER EATON: So on the other hand again
15 does the -- oh, is it Copperopolis or wherever that is,
16 the monofill up in that rural area, would they get zero
17 points if they put it in the monofill if that were ever
18 to come on line? Is that landfilling?

19 I'm just asking the questions because it's
20 important criteria-wise as we go into this new budget and
21 this new monies that we have some sense before we vote on
22 the criteria that, what's included and what's not
23 included. Is that included?

24 BOARD CHAIR MOULTON-PATTERSON: Ms. Gildart.

25 MS. GILDART: Oh, that was -- okay, I thought it

1 was rhetorical. It might depend --

2 BOARD MEMBER EATON: Many times it is, but this
3 one it's not. You must be talking to Mr. Lawry.

4 MS. GILDART: My understanding is that the
5 California Asbestos Monofill has claimed that their
6 project is a land reclamation project and that, in their
7 view, it is a form of recycling.

8 This is one we might ask the Board's opinion
9 whether they support that claim.

10 BOARD MEMBER JONES: I'd just as soon not go
11 there right now.

12 BOARD CHAIR MOULTON-PATTERSON: Did that answer
13 your question, Mr. Eaton?

14 BOARD MEMBER EATON: No.

15 BOARD CHAIR MOULTON-PATTERSON: Okay.

16 BOARD MEMBER EATON: Let me propose something
17 then in that category. That we get 11 points for reuse,
18 because what we're trying to do is pick up an extra five
19 points in there.

20 MS. GILDART: It could be a total of fifteen
21 points for reuse and the others would be lesser.

22 BOARD MEMBER EATON: Eleven points for reuse or
23 recycling, seven for energy, three points for use of
24 landfill, and then you could go with actually two points
25 for landfill disposal where no economically feasible

1 alternative exists. Now you can drive a truck through.

2 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

3 BOARD MEMBER PAPARIAN: Mr. Eaton, just a
4 friendly suggestion. I think the way the math works on
5 this, I think you do want the first item to be fifteen
6 points. If they are --

7 BOARD MEMBER EATON: You only got fifteen total.

8 BOARD MEMBER PAPARIAN: Right. And if they are
9 sending a hundred percent of it to a recycling use, you
10 want them to get fifteen points? Is that, I'll ask the
11 staff if that --

12 BOARD MEMBER EATON: I'm not sure how the
13 criteria is working. If there's a split, is there, you
14 can be eligible for all fifteen or whatever. My
15 understanding was that it was split amongst the programs,
16 and if there is where one can be allocated, that's fine,
17 I don't have any problem with allocating fifteen for the
18 most beneficial use, I don't have that criteria at all
19 for that. But what normally happens is they pick and
20 choose little pieces of it and they end it up.

21 So if you want it to be eligible it can be
22 fifteen, that's fine with me, I'm happy with that.

23 BOARD CHAIR MOULTON-PATTERSON: So you're
24 suggesting, Mr. Paparian, fifteen points for the reuse or
25 recycling?

1 BOARD MEMBER PAPARIAN: Right. And I think
2 that's consistent with the hierarchy which we're supposed
3 to be operating under.

4 BOARD CHAIR MOULTON-PATTERSON: I have a
5 question, Mr. Eaton. Was your proposal to eliminate the
6 describe past grants?

7 BOARD MEMBER EATON: Yes. Yes, that criteria so
8 that we can get, I mean my understanding is we're
9 supposed to be increasing more monies in the pot to local
10 amnesty programs. If we eliminate people by
11 discriminating against them for past experience, we're
12 actually going to hurt, I think, local jurisdictions.

13 I think that they can talk about where, the fact
14 that that can be brought forth in budget; need to be a
15 situation where they have an ongoing program, they have
16 past experience that they bring into that. You can be
17 very creative about how you bring that in without being
18 discriminatory in another section which awards points.
19 So I would propose that we eliminate that.

20 MS. GILDART: If I could ask a question here.
21 My understanding is that we are able, from program to
22 program and year to year, to adjust the points awarded
23 for any one of the general criteria. But the general
24 criteria themselves were adopted by a Board motion a few
25 years ago, and that to modify the content of the criteria

1 requires a separate noticed action that the Board will be
2 considering those general criteria.

3 So what we could do if my understanding is
4 correct, and we can ask legal, is adjust the points and
5 what elements of the criteria are eligible for points,
6 but I don't think we can totally change the wording.

7 BOARD MEMBER EATON: That's fine. I'm happy to
8 continue it to next month.

9 CHIEF LEGAL COUNSEL TOBIAS: That is correct. I
10 support what Martha said about the difference between the
11 wording on this which has already been adopted and then
12 what your dealing with today is the point system.

13 And if you want to go back, such as taking out
14 the relationship of past grants, we'd have to go back
15 into that.

16 BOARD CHAIR MOULTON-PATTERSON: So you're saying
17 that we can change the points but not the items under it?

18 CHIEF LEGAL COUNSEL TOBIAS: Correct.

19 MS. GILDART: Just for the general criteria.
20 That's why we have program specific criteria, and those
21 change each cycle, each year, whenever; and then there's
22 a general criteria that the Board established first in
23 1996, modified in '98, and then modified again last year.
24 But there's a separate action dealing with that as a
25 block.

1 BOARD MEMBER JONES: Let me ask a question.

2 BOARD CHAIR MOULTON-PATTERSON: Yes, Mr. Jones.

3 BOARD MEMBER JONES: We, if we take item six,
4 completeness, and we assign it five points total, then
5 you'd be weighing that five points against a letter of
6 support for the project that addresses the ability of the
7 applicant to coordinate the contracted services, it
8 includes resumes, endorsements, and endorsements and
9 resumes and references, and there could be a description
10 if we had to leave this language in of past grants; but
11 the total of that section would be five points?

12 MS. GILDART: Correct.

13 BOARD MEMBER JONES: So you, so the description,
14 because I agree with Mr. Eaton, we're trying to get this
15 out to a lot of people and we don't want to penalize them
16 if they've never applied for a grant. But if we're only
17 assigning five points total to that criteria, then the
18 weight of that description is going to be pretty minimal.

19 MS. GILDART: Correct.

20 BOARD MEMBER JONES: It would actually be the
21 equivalent of one point, I mean logically it would be
22 pretty light.

23 MS. GILDART: Correct.

24 BOARD MEMBER EATON: So you can move the points
25 around but not the criteria?

1 BOARD MEMBER JONES: You can take care of their
2 issue and then You can just drop the points from fifteen
3 to five.

4 BOARD CHAIR MOULTON-PATTERSON: So number two
5 would be fifteen; number six, five; and nine, fifteen?
6 Did I get that right?

7 CHIEF LEGAL COUNSEL TOBIAS: Madam Chair, could
8 I comment on this language?

9 BOARD CHAIR MOULTON-PATTERSON: Yes, Ms. Tobias.

10 CHIEF LEGAL COUNSEL TOBIAS: You know, I think
11 when you read number six in total it's really talking
12 about how the grant proposal is presented, that it's
13 complete, and that it has evidence that there's
14 sufficient staff resources, technical experience. And
15 then those bullets are examples of things that it might
16 include to show that it's a complete application.

17 So deferring to Ms. Gildart who's worked more
18 specifically with this, I would suggest that, I think
19 that that describes past grants received and the
20 relationship to the current proposal might be read more
21 as just an indication that they have carried out past
22 grants and that they've showed that they're able to, you
23 know, complete something and so not so much credit for
24 having gotten a grant.

25 And if they could show grants from, you know,

1 some other entity, which also shows that they're able to,
2 you know, carry out and do something efficiently and
3 according to the rules and regulations, then, you know,
4 I'm not speaking so much of the points, but I think we
5 could include this discussion on the record so that that
6 evidence of past grants is not so much points because
7 they've gotten past grants, but points because they show
8 that their past grants have been carried out properly.
9 Is that acceptable?

10 MS. GILDART: That is one way, there is an
11 alternative if I'm understanding the wishes of the Board
12 right now. We could add another criteria, so that would
13 be criteria number 11, offering extra points for first
14 time applicants. That might overcome any preference for
15 a past applicant who's shown an ability to carry out a
16 program.

17 Is that anything that the Board would want to
18 consider?

19 BOARD CHAIR MOULTON-PATTERSON: Thank you. Did
20 you want to go ahead and make a motion?

21 BOARD MEMBER JONES: Yeah, I do have one, I just
22 want to make, I just want to ask one question of staff.
23 A used oil app comes in, it is not complete, it gets
24 tossed, correct?

25 MS. GILDART: Correct.

1 BOARD MEMBER JONES: Okay. Tire grant comes in,
2 it's not complete, it gets tossed?

3 MS. GILDART: There's a little latitude. If the
4 application itself --

5 BOARD MEMBER JONES: Let me rephrase it, Board
6 members.

7 MS. GILDART: Okay.

8 BOARD MEMBER JONES: Tire grant comes in, it's
9 not complete, does it get tossed? Yes?

10 BOARD CHAIR MOULTON-PATTERSON: I think so.

11 BOARD MEMBER PAPARIAN: I'm comfortable with
12 that, they have to resubmit.

13 BOARD MEMBER JONES: Okay. Resubmit at the next
14 grant cycle or if they have time? Okay. Then that makes
15 this a moot issue. I mean not moot, but it doesn't put
16 the importance on the completeness because, and it's
17 consistent with our used oil program that says fill it
18 out right, you're coming for a grant. If you can't deal
19 with that part, then try it next time. Madam Chair.

20 BOARD CHAIR MOULTON-PATTERSON: Yes.

21 BOARD MEMBER JONES: I'm sorry.

22 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina and
23 then Mr. Jones.

24 BOARD MEMBER PAPARIAN: I had a comment too.

25 BOARD CHAIR MOULTON-PATTERSON: I'm sorry, Mr.

1 Medina, Mr. Paparian, and then back to Mr. Jones.

2 BOARD MEMBER MEDINA: Before a motion is passed
3 on this I have two additional program criteria that I
4 would like to raise at this time. And I'd like to add a
5 special production cost, this is something that came up
6 at the, it was brought up by the staff at the briefing.

7 And the special production cost would recognize
8 grant proposals that demonstrate additional cost for the
9 production of multilingual materials, including
10 translation and outreach costs. And this diversity in
11 the country will include more residents in the efforts by
12 local jurisdictions to recycle and dispose of used and
13 waste tires.

14 I would also like to add past additional program
15 criteria, environmental justice, and this is the degree
16 to which a local jurisdiction demonstrates the
17 willingness to consider projects in low income or
18 underserved community or disproportionately impacted
19 communities. And this change will address the key issue
20 on the document on page one through three regarding
21 environmental justice.

22 And I have the language for these prepared for
23 staff. And each one would get five points.

24 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
25 you, Mr. Medina. Mr. Paparian, and then we'll go back to

1 Mr. Jones and Mr. Eaton for the motion.

2 BOARD MEMBER PAPARIAN: I just had a quick
3 question regarding the ADC use of tires. In your view
4 is, if you use tires for ADC, are they inert over time or
5 is there any interaction with landfill gas and leachate?

6 MS. GILDART: I think there are some questions
7 that have been raised in the past on that issue.
8 However, the administration of the ADC program lies with
9 the Permitting and Enforcement Division, and they're the
10 entity with the authority to approve the material as
11 meeting their requirements.

12 I know there have been comments made that the
13 use of tires as daily cover could lead to reactions or
14 possible fires in the landfill. But I would defer to P
15 and E on that.

16 BOARD MEMBER PAPARIAN: Given the number of
17 points we're talking about, three points for that versus
18 fifteen for recycling and reuse, I, depending on which
19 way we go with the resolution I'll probably be
20 comfortable with the resolution, but I wanted to flag
21 that as an issue that I wanted to take a look at over
22 time. I'm a little bit concerned with what might be
23 happening when we use the tires as ADC.

24 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
25 Paparian.

1 Mr. Jones.

2 BOARD MEMBER JONES: I have a question. The,
3 Mr. Medina, the two issues that you just brought up would
4 go under which of the, would that have to be new?

5 BOARD MEMBER MEDINA: It would be under program
6 criteria, and it would be marked eleven and twelve.

7 MS. GILDART: I believe his intent is the total
8 points would be 110.

9 BOARD MEMBER JONES: Attachment ten?

10 BOARD MEMBER MEDINA: Attached one through
11 seven, seven under program criteria, it would follow with
12 cost per tire.

13 BOARD MEMBER JONES: Yeah. Now, question of, is
14 that, I mean I heard that if we took one line out of
15 describe we'd have to bring it back. If we add these two
16 criteria, I mean I'm ready to make a motion including
17 those, but that's going to take the point total up to
18 110 -- and that was easy for somebody else to say.

19 CHIEF LEGAL COUNSEL TOBIAS: That's fine. What
20 you're adjusting today is the points, you can add in the
21 program criteria. It's the general criteria that's
22 already been adopted.

23 BOARD MEMBER JONES: Okay.

24 CHIEF LEGAL COUNSEL TOBIAS: So I don't think
25 there's a problem in changing the number of points or --

1 BOARD MEMBER JONES: So to add criterias number
2 eleven and twelve, you'll get that language from Mr.
3 Medina, and you'll assign five points to each, making the
4 grand total of 110 points, is that it?

5 Madam Chair.

6 BOARD CHAIR MOULTON-PATTERSON: Yes.

7 BOARD MEMBER JONES: I'm going to a move
8 adoption of resolution 2001-68 with, as amended with,
9 under -- okay. Criteria number one would be 25 points.
10 Criteria number two would be fifteen points.

11 BOARD MEMBER ROBERTI: Criteria number one is?

12 BOARD CHAIR MOULTON-PATTERSON: Would you repeat
13 that again?

14 BOARD MEMBER JONES: I'm only changing -- I'll
15 do it this way.

16 Criteria number two I'm changing from ten to
17 fifteen.

18 Criteria number --

19 BOARD MEMBER ROBERTI: That incorporates Mr.
20 Medina's suggestions?

21 BOARD CHAIR MOULTON-PATTERSON: No, I think
22 those are going to go at the end.

23 BOARD MEMBER JONES: No.

24 BOARD MEMBER ROBERTI: Okay. I'll wait.

25 BOARD MEMBER JONES: Criteria number six is

1 going to be changed from fifteen to five.

2 Criteria number nine will go from ten to fifteen
3 with the addition of an explanation on landfill disposal
4 where no markets exist, and where they don't they get two
5 points -- is that what you --

6 CHIEF LEGAL COUNSEL TOBIAS: Mr. Jones, could we
7 say based on evidence?

8 BOARD MEMBER JONES: Based on evidence where no
9 markets exist. Absolutely, based on evidence.

10 BOARD MEMBER ROBERTI: I think you also had a
11 change from ten to fifteen there.

12 BOARD MEMBER JONES: And then that change on
13 the, on the points, change for reuse and recycling from
14 ten to fifteen.

15 And from, landfill disposal from zero to two
16 where no markets exist.

17 And was there any, was there -- did you have
18 another one? I didn't --

19 BOARD MEMBER EATON: Or viable alternatives,
20 because if you're in a rural area in the middle of, you
21 know, Siskiyou County and you have tires, I'm not sure
22 that they have energy facilities, I'm not sure that they
23 have crumb rubber facilities and, you know, I'm not even
24 sure they have rail lines to get the trucks down or any
25 licensed rail haulers -- or tire haulers. So you have to

1 have some alternatives.

2 BOARD MEMBER JONES: So it would be two points
3 for landfills with evidence that there are no
4 alternatives, no markets available.

5 And add program criteria number 11 which would
6 be --

7 BOARD MEMBER MEDINA: Special production costs.

8 BOARD MEMBER JONES: Special production costs
9 for five points.

10 BOARD MEMBER MEDINA: Yeah.

11 BOARD MEMBER JONES: And add number twelve.

12 BOARD MEMBER MEDINA: Twelve, environmental
13 justice.

14 BOARD MEMBER JONES: Which will be five points,
15 for a grand total of 110 points.

16 BOARD CHAIR MOULTON-PATTERSON: Do we have a
17 second?

18 BOARD MEMBER EATON: Second.

19 BOARD CHAIR MOULTON-PATTERSON: Okay. Motion by
20 Mr. Jones for resolution 2001-68 as amended. Seconded by
21 Mr. Eaton.

22 Please call the roll.

23 BOARD MEMBER ROBERTI: Are we still doing the
24 three points for ADC?

25 BOARD CHAIR MOULTON-PATTERSON: Yes.

1 BOARD MEMBER JONES: Yes.

2 BOARD MEMBER ROBERTI: I won't object to it. I
3 think that as part of our diversion credit and we're
4 stuck with the policy the Board has adopted, and cities
5 have relied upon, but I think now we're extending ADC
6 concepts into now into grant awards so, and we're
7 creating another potential reliance where cities are
8 going to say, well, we've always relied on that when
9 we've gotten money from the Board. So it's only three
10 points, but it's a slippery slope.

11 So I don't know how the other Board members feel
12 about it, but I'll vote for the resolution, but with the
13 proviso that this is the last time that I'm going to vote
14 to expand the concept of ADC.

15 I don't object to it as part of the diversion
16 credit, it's part of the operation of this Board, but
17 there's no reason why we are expanding that concept now
18 into grant awards, because we're going to have,
19 inevitably potential grantees coming up to us, well, this
20 is the way you've operated and we've relied upon it and
21 we've set up shop based on the fact that we might get
22 some credit for this and now you're changing the rules on
23 us, which is the same thing we're getting right now as to
24 why we can't change it on diversion credit.

25 So with that warning that this is a one time

1 only shot as far as I'm concerned, it's three points
2 only, I'll vote for the resolution.

3 BOARD CHAIR MOULTON-PATTERSON: Okay. Any
4 comment?

5 BOARD MEMBER JONES: Madam Chair.

6 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

7 BOARD MEMBER JONES: I just, it's, it's three
8 points out of a total of --

9 MS. GILDART: 110.

10 BOARD MEMBER JONES: It's three points out of a
11 total of 27, total.

12 MR. LEARY: 110.

13 BOARD MEMBER JONES: Out of 27 potential points
14 within that one grant, and it doesn't just include ADC,
15 it includes, it includes --

16 BOARD MEMBER ROBERTI: Leachate.

17 BOARD MEMBER JONES: -- leachate collection
18 systems, lightweight embankment, anything that uses
19 shredded tires. And while ADC is used a lot, one thing
20 that I, these are amnesty and cleanup tires that are not
21 the tires coming out of a tire store but the tires coming
22 out of a tire pile that are not always appropriate for
23 end use at a crumb rubber facility, at a shredding
24 facility just because they've been contaminated for
25 years. And ADC was one way of people dealing with it,

1 the other way was they shredded 'em off and they
2 landfilled 'em and covered 'em with dirt. So I just hope
3 that we --

4 BOARD MEMBER ROBERTI: I don't have a problem
5 with the leachate control and the embankment control, but
6 I have a hunch that most of these applicants are going to
7 be ADC and not the other two. But whatever, I'm amenable
8 to going along.

9 BOARD MEMBER JONES: Okay.

10 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

11 BOARD MEMBER PAPARIAN: Mr. Jones just said
12 something about the math here that was different than
13 what I understand. You said out of a possible 27 points
14 and I see it as a possible fifteen points. I want to
15 make sure I'm clear on this because this is important to
16 me.

17 If you had a combination of energy recovery,
18 landfilling, and ADC, I don't see that you would get
19 seven plus three plus two. And if you're seeing it that
20 way I need to clarify this a little bit.

21 CHIEF LEGAL COUNSEL TOBIAS: I think the most
22 you can get is fifteen.

23 BOARD MEMBER PAPARIAN: Right.

24 CHIEF LEGAL COUNSEL TOBIAS: So if you had
25 something that reached that amount you would get the

1 fifteen, a total of fifteen.

2 BOARD MEMBER JONES: What I was trying to say is
3 a pool of three points and a pool of 27 available points
4 within a fifteen point criteria.

5 CHIEF LEGAL COUNSEL TOBIAS: I think you were
6 adding up the program totally, and Mr. Medina is
7 basically looking at just that one particular number
8 ten -- or number nine. Correct?

9 BOARD MEMBER MEDINA: Let me just ask the
10 question this way.

11 BOARD MEMBER EATON: If you have the maximum of
12 fifteen points that can awarded, within that pool you can
13 divide that up any which way to get to the maximum of
14 fifteen. But in terms of weighting, for instance, if you
15 had a program which was a local amnesty day, and part of
16 that went for recycled asphalt, and it was a project of
17 which 60 percent of the funds would go to that, you would
18 be awarded twelve points out of an eligible fifteen.

19 And therefore if you had a program by which you
20 were in a rural jurisdiction, and for some reason or
21 another that jurisdiction had a cement plant, and a small
22 portion of that was going to go to that cement plant or
23 to an energy plant, whatever it might be, or cogen plant
24 in Stockton, then you could be, even though you can get
25 seven points maximum, you would only be able to get three

1 based on your program.

2 So three plus twelve equals fifteen so you're at
3 the maximum of fifteen for weighting purposes for
4 eligibility, but within it, all of the different
5 components our emphasis is on the weighting of those
6 particular activities in order to be able to get the
7 maximum amount of award, which would be fifteen points is
8 what you're trying to get it to.

9 BOARD MEMBER PAPARIAN: If you did a combination
10 of energy recovery, ADC, and landfilling, what you're
11 suggesting is you could then get twelve points?

12 BOARD MEMBER EATON: Corrects.

13 BOARD MEMBER PAPARIAN: And that would be viewed
14 equal as sending a hundred percent of it to recycling and
15 reuse.

16 BOARD MEMBER EATON: No, you said fifteen we
17 could get for recycled.

18 BOARD MEMBER PAPARIAN: So it would be roughly
19 equal. I mean it's just, there's a skewing here that I'm
20 concerned about.

21 BOARD MEMBER EATON: There's not a skewing, what
22 it is is you're not just going to get one particular end
23 use, Mr. Paparian. When you have these amnesty programs
24 you're going to have a number of different end uses. And
25 by that I use that loosely, because it could be

1 landfilling which I don't feel is an end use, but
2 definitionally that would be where, or shall I say a
3 disposal kind of activity.

4 So what it basically is is that if you have
5 three or four different activities going on, you can
6 either be awarded within the category of fifteen points,
7 a maximum of up to fifteen; if it's reuse or recycle you
8 can get all fifteen for that, in which case there are no
9 more eligible points. You get the maximum total of
10 fifteen.

11 But if you are not, if you are only using a
12 portion of those for reuse, for instance, and a portion
13 of those perhaps for an energy, then you can combine
14 seven plus eight so that you are eligible to get to
15 fifteen which increases your chance of getting the grant.

16 BOARD CHAIR MOULTON-PATTERSON: Right, but a
17 maximum of fifteen for that category?

18 BOARD MEMBER EATON: Correct. Correct.

19 BOARD MEMBER PAPARIAN: Does staff want to
20 clarify something there?

21 MS. GILDART: If we were to look at the
22 percentage of tires going to each of the end use and
23 apply that percent of the points available for that
24 category, then we would never exceed the fifteen maximum
25 points.

1 BOARD CHAIR MOULTON-PATTERSON: Right.

2 MS. GILDART: The weighting would reflect that
3 percentage. For instance, if you had 70 percent of the
4 tires going for ADC, that would be two points that would
5 come out to a total of 1.4 points; and if 30 percent were
6 going for recycling, that would be thirty percent of
7 fifteen or 4.5 points, so that would be a total of about,
8 what, 5.7 all together out of the maximum of fifteen. So
9 we would not exceed the fifteen point limit --

10 BOARD CHAIR MOULTON-PATTERSON: Right.

11 MS. GILDART: -- at any time because we --

12 BOARD MEMBER PAPARIAN: Right. But if you're
13 not reusing or recycling, I'd like to see also the lower
14 amount of maximum points that you could get.

15 BOARD MEMBER EATON: That's all you can be
16 awarded.

17 BOARD MEMBER PAPARIAN: Because I was reading --

18 BOARD CHAIR MOULTON-PATTERSON: Okay. One at a
19 time, please.

20 BOARD MEMBER EATON: They don't have to award
21 the total of fifteen points. So if you have no recycling
22 or reuse, but you have one of those other activities, you
23 would get a maximum or a, you know, or a portion of that.

24 Let's say if it's energy related, you could get
25 five points and that's all you get. Just because you get

1 to energy doesn't mean you get fifteen points in the
2 category.

3 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.
4 Paparian, did you have anything else before we vote?

5 BOARD MEMBER PAPARIAN: Yeah, again if you're
6 doing, what you're doing then, let's say there's no,
7 there's no reuse or recycling, what you're doing then is
8 you're, you have somebody perhaps who's going to use them
9 for energy recovery, but their incentive is going to be
10 to try to get those extra points, so their incentive is
11 going to be to pull some of those from energy recovery
12 and send them to landfills in order to get more points,
13 send them to landfills in the form of disposal or ADC.

14 MS. GILDART: Actually our intent was to look at
15 the percent of tires going to any one use and only
16 applying that percent for the points. So if you had,
17 let's say 80 percent of the tires going for energy
18 recovery, you could get 80 percent of the points
19 available which would be 80 percent of seven. And the
20 remaining twenty percent of tires if they went for ADC
21 would be twenty percent of the points available which is
22 two. So it would be well below even the maximum you
23 could get for recovery under a hundred percent. Each one
24 is a discreet line item.

25 BOARD MEMBER PAPARIAN: With that explanation

1 I'm much more comfortable, if that's the understanding of
2 the Board.

3 CHIEF LEGAL COUNSEL TOBIAS: Staff agrees.

4 BOARD CHAIR MOULTON-PATTERSON: Please call the
5 roll. We have a motion by Mr. Jones, seconded by Mr.
6 Eaton.

7 BOARD SECRETARY VILLA: Eaton.

8 BOARD MEMBER EATON: Aye.

9 BOARD SECRETARY VILLA: Jones.

10 BOARD MEMBER JONES: Aye.

11 BOARD SECRETARY VILLA: Medina.

12 BOARD MEMBER MEDINA: Aye.

13 BOARD SECRETARY VILLA: Paparian.

14 BOARD MEMBER PAPARIAN: Aye.

15 BOARD SECRETARY VILLA: Roberti.

16 BOARD MEMBER ROBERTI: Aye.

17 BOARD SECRETARY VILLA: Moulton-Patterson.

18 BOARD CHAIR MOULTON-PATTERSON: Aye.

19 We're going to take a ten minute break, please.

20 (Thereupon there was a brief recess.)

21 BOARD CHAIR MOULTON-PATTERSON: I'd like to
22 call the meeting back to order, please. Oh, we have
23 music.

24 It's my understanding that Councilwoman Eileen
25 Ansari would like to make a brief comment. Come on

1 forward councilwoman from the City of Diamond Bar.

2 MS. ANSARI: Thank you very much Chairman and
3 members of the Board. As you know, I've been very
4 involved with solid waste issues, and I'd like to take
5 this opportunity on behalf of the, from the cities in
6 Southern California, and also the fact that you have been
7 working with the cities and by putting a office down in
8 Southern California and by having someone come to the
9 L.A. County task force it looks like you've heard our
10 cry.

11 One of the issues that we would like to do is to
12 continue working with you, because we need to get to this
13 fifty percent diversion. And we would like to see this
14 program implementation happen in the cities and try and
15 get away from county which has hurt those cities going to
16 landfill. I won't express all those concerns we've had.

17 But I'd like to thank you for trying to work
18 with the cities for hearing our concerns and issues and
19 hope that we can continue with this communication level.

20 And I'd like to thank our Board members for
21 coming to the L.A. County task force, for coming to the
22 staff, Board, waste, I'd like to thank you.

23 BOARD CHAIR MOULTON-PATTERSON: Thank you,
24 councilwoman, and we will look forward to being in
25 Diamond Bar in October, I believe. Thank you.

1 We're moving on to item number two.

2 BOARD MEMBER PAPARIAN: Madam Chair.

3 BOARD CHAIR MOULTON-PATTERSON: Ex-partes,
4 excuse me.

5 Mr. Paparian, did you have anything? We'll just
6 go in order.

7 BOARD MEMBER EATON: Three to report. Just a
8 quick meet and greet with John Cupps, same with Ed Lawry
9 and Barnes as well.

10 BOARD CHAIR MOULTON-PATTERSON: Thank you.

11 Mr. Jones.

12 BOARD MEMBER JONES: Bob Judd, and that was it I
13 think.

14 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.
15 Medina.

16 BOARD MEMBER MEDINA: Telephone conversation
17 with Mike Gotts from the Governor's office regarding the
18 City of San Diego at that 38th and Redwood dump site, and
19 Joe Montoya.

20 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
21 you.

22 Mr. Paparian.

23 BOARD MEMBER PAPARIAN: Yeah, brief hello to
24 Deborah Barnes. Also discussed with Dennis McKegian the
25 tires and landfill issue. Brief conversation with Ed

1 Lawry. And a conversation with Chuck White of Waste
2 Management regarding item 16 and 20.

3 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti.

4 BOARD MEMBER ROBERTI: No ex-parte, thank you.

5 BOARD CHAIR MOULTON-PATTERSON: I have a, I
6 listened to a telephone message from past supervisor Gary
7 Jakomini on Sonoma County.

8 And with that we're turning it over to Mr.
9 Leary.

10 BOARD MEMBER EATON: Madam Chair.

11 BOARD CHAIR MOULTON-PATTERSON: Excuse me.

12 BOARD MEMBER EATON: I also had a brief
13 conversation with Rick Best really unrelated to the Board
14 business, just a meet and greet.

15 BOARD CHAIR MOULTON-PATTERSON: Thank you.

16 BOARD MEMBER ROBERTI: Oh, thank you, I had a
17 conversation with Mr. Best as well.

18 BOARD CHAIR MOULTON-PATTERSON: Okay.

19 BOARD MEMBER ROBERTI: It was generally meet and
20 greet.

21 BOARD CHAIR MOULTON-PATTERSON: Meet and greet
22 with Mr. Best. Thank you.

23 Mr. Leary.

24 MR. LEARY: Good morning again, Madam Chair and
25 members of the Board. Agenda item two is consideration

1 of the approval of Senate Bill 876, the five year plan.

2 It's with a great deal of enthusiasm, a measure
3 of satisfaction, and maybe a little trepidation that I
4 present the five year plan for the comprehensive
5 management of waste tires in California for your
6 consideration and approval.

7 With this document and your approval that will
8 ultimately result in the cleanup of all illegal tire
9 piles and the responsible management of all waste tires
10 in this state.

11 I speak to this document as the completion of
12 the beginning because it completes a process that the
13 Board began in 1998 with the response to the passage of
14 AB 117. Led by the bill's author and Assemblyman Escutia
15 directed the Board to conduct a comprehensive study of
16 the management of waste tires.

17 The Board's adoption of the, in 1999, evaluation
18 and recommendations final report completed our
19 obligations to the legislature pursuant to AB 117 and set
20 the stage for the package of Senate Bill 876.

21 Again led by now Senator Escutia, and Board
22 Members Eaton and Jones, and with the support of the rest
23 of the members and Board staff, as well as many of the
24 stakeholders here today, Senate Bill 876 was enacted into
25 law.

1 With this enactment, the Board has been given a
2 mission and the resources to complete that mission. The
3 mission is to develop and implement a comprehensive
4 program for the management of waste tires. With the
5 increase of the fee paid for purchase of new tires from
6 25 cents to one dollar, and the expansion of the
7 assessment on that fee to tires for new represents 30
8 million dollars per year to complete our mission.

9 The Board's first charge in implementing the
10 landmark environmental legislation is to adopt the five
11 year business plan establishing goals and priorities for
12 the waste tire program and forward to the legislature
13 into the Governor by July 1st of this year.

14 The document in this agenda item is that plan,
15 and completes the process put in motion in 1998 by
16 Assembly Bill 117.

17 As you know, the plan's been the subject of two
18 stakeholder meetings, an all day workshop and a
19 discussion oriented agenda item meeting last month. We
20 greatly appreciated the comments we have received from
21 the stakeholders and the direction we have perceived from
22 the Board. We have made a number of changes in the plan
23 since the Board discussed the item last month, and I'd
24 like to highlight these.

25 Maybe most importantly we included six major

1 goals for the implementation of Senate Bill 876 in the
2 five year plan.

3 They are, one, to eliminate all known illegal
4 piles of waste tires in California.

5 Two, to identify and track the used waste tire
6 flow in California.

7 Three, to reduce the legal and illegal disposal
8 of waste tires in California by increasing the reuse,
9 recycling, energy recovery of or from waste tires while
10 protecting the public health and safety and the
11 environment.

12 Four, to the greatest extent possible this plan
13 will enhance alternatives to disposal only for waste
14 tires originating in California.

15 Number five, commit to provide excellent
16 customer service in a responsible and cost effective
17 manner.

18 And finally six, we plan to implement this plan
19 in a manner that ensures people of all races, cultures
20 and income are treated fairly that no segment of the
21 population suffer the consequences, including cumulative
22 exposure from impacts of environmental pollution or
23 equitable access to environmental benefits.

24 Other changes we have made include, for each of
25 the five program elements we've added specific objectives

1 and performance measures so the legislature and our
2 stakeholders may measure our progress.

3 In the cleanup element we've developed an
4 aggressive action plan that will result in the cleanup of
5 all major sites in three years, and all cleanup sites
6 currently listed in four years; for addressing our
7 backlog of sites so that we may expeditiously pursue
8 enforcement on the most significant sites and identify
9 those that require state funding cleanup by the next
10 fiscal year.

11 In the research element we propose evaluating
12 creation of a tire research center in the first fiscal
13 year as a means of a third party peer review process
14 we've all identified as necessary for a meaningful
15 research program.

16 And finally, in the market development element,
17 we've enhanced the description of past efforts conducted
18 by the Board including playground and track surface
19 grants to increase the use of rubberized asphalt
20 concrete.

21 One correction that I need to read into the
22 record occurs on page 19 under the farm and ranch
23 cleanup. In the proposed funding we include \$300,000 for
24 fiscal year 01/02 through 05/06. That number should be
25 \$330,000 instead of the 300 listed.

1 In conclusion, we now have a legislative mandate
2 and the resources of the Board 117 had hoped for and
3 we're ready to rebuild the future. Boldly proposes to
4 remedy within five years in a manner that is towards
5 hierarchy of source reduction, recycling, composting, and
6 transformation.

7 That concludes my presentation and I will, I'd
8 be happy to answer any of the Board's questions.

9 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
10 Leary. Questions? Comments?

11 Mr. Paparian.

12 BOARD MEMBER PAPARIAN: Thank you, Madam Chair,
13 I'd like to hear the public comments first, but I do have
14 some comments to make and suggestions as well.

15 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
16 you, Mr. Paparian.

17 Anything before our public comments?

18 BOARD MEMBER EATON: I have the same.

19 BOARD CHAIR MOULTON-PATTERSON: Okay. We have a
20 number of public comments, we don't have a time limit but
21 we would ask that you try to limit your remarks to five
22 minutes, and if you agree with a previous speaker to so
23 state.

24 But Bob Winters, Atlas Rubber, Incorporated.

25 MR. WINTERS: Good morning, Madam Chair,

1 members, staff.

2 BOARD CHAIR MOULTON-PATTERSON: Good morning.

3 MR. WINTERS: Thank you for coming south and
4 saving us some airfare this trip, we appreciate it. If I
5 stumble at all it's because I celebrated the first day of
6 spring by having a full-blown allergy attack, and the
7 medication is getting to me.

8 Anyway, I'm here not so much on behalf of Atlas
9 Rubber, but on behalf of the California Crumb Rubber
10 Producers Group and formation, which includes most all of
11 the members, all of the existing and several now building
12 crumb rubber facilities in California which will be
13 utilizing scrap California tires.

14 When I last addressed you in January, I
15 mentioned a project that Caltrans put out to bid for
16 asphalt rubber just outside of Sacramento that used 1.2,
17 will use 1.2 million pounds of crumb rubber. That
18 project has been awarded to British Columbia. There will
19 be no California tires in that project.

20 I was just recently advised that the F&F
21 Construction Company in Phoenix, Arizona were the
22 successful bidders on a project for Caltrans just south
23 of the Oregon line that will use two million pounds plus
24 of crumb rubber. This project also will utilize British
25 Columbia crumb rubber.

1 We have a problem. There's just no question
2 that the way in which all of the California crumb rubber
3 producers operate is to build inventory during the winter
4 when there is no, and the rains are coming down,
5 especially this year, and hopefully some of that
6 inventory in spring and early summer. Well, these two
7 projects were sizable and are going to take a big bite
8 out of the early ability of the California producers to
9 ship product.

10 And we seek your help. We're not sure what form
11 it should take, but we think it should be monetary, and
12 it should help us to level the playing field with those
13 parts of the country and other parts of the world that
14 are bringing in crumb rubber that are subsidized.

15 The subsidies in British Columbia, I think we've
16 all discussed it at great length. The subsidies in
17 Arizona and Utah have also been discussed. There's just
18 no way that we're going to get rid of California tires at
19 one of the highest levels on your hierarchy, which is
20 crumb rubber and asphalt if we're going to have an uneven
21 playing field relative to the importation of
22 non-California crumb rubber.

23 We ask for your help, and I don't know what form
24 it would take, but it would be some type of grant
25 proposal, I'm sure. But we would like to talk to staff

1 about something rather quickly because this, there is
2 some urgency to this matter, this is not something we can
3 study to death and talk about at the end of the year or
4 two. We may not be around in a year or two if the
5 competition from outside that's subsidized puts us out of
6 business, and it could. So we seek your help and
7 respectfully ask for it.

8 Thank you.

9 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
10 Winters. Terry Leveille, TL & Associates.

11 MR. LEVEILLE: Madam Chair and Board, Terry
12 Leveille, TL & Associates. Like the last couple of
13 months, I come to you wearing two hats. The first one is
14 on behalf of the Tire Dealers Association, north and
15 south, representing about six hundred independent tire
16 dealers and the primary stakeholders, the ones that
17 collect the fee, that remit it to the Board of
18 Equalization, that ends up in the tire recycling fund.

19 Their job, or my job for them is to watch the
20 development of the tire programs and make sure that the
21 money is spent equitably and for tire recycling programs,
22 whether that be cleanups, market development,
23 enforcement, and the like.

24 There's two items that I've spoken about before
25 that are still in the five year plan that I'd like to

1 just reiterate to the Board.

2 One is the \$10,000 that is earmarked for the RAP
3 award program. And the RAP award program is a very good
4 program, however, it has nothing to do with tires; it has
5 to do with the businesses that recycle, no tire dealer or
6 tire recycling enterprise has ever won an award; and it
7 seems entirely appropriate that this award program should
8 be funded out of the Integrated Waste Management account,
9 the 939 monies.

10 I know that the Madam Chair had spoken about
11 this at the last Board meeting, there was never a motion
12 taken by the Board on this particular item, but I think
13 that today would be a good time to look at that
14 particular item and maybe direct it over and take that
15 \$10,000 and to put it in a place within the tire programs
16 that might be more useful, whether it's crumb rubber,
17 cleaning up more tires, whatever.

18 The second item is the farm and ranch program.
19 Once again, the Board has seen fit or the staff has seen
20 fit to earmark \$330,000 into that program every year. At
21 the same time, this five year plan beefs up the local
22 government cleanup program, and staff has urged that that
23 local government cleanup program work hand in hand with
24 the farm and ranch program to target tires at urban or
25 rural waste sites where the farm and ranch program goes.

1 Now, SB 876 said specifically that money is to
2 be spent from the dollar tire fee for cleaning up tires
3 through the farm and ranch program.

4 I see this as a perfect example of a marriage of
5 your local government cleanup program with the farm and
6 ranch program having the farm, having the local
7 government cleanup program earmark their money for the
8 tire cleanup, and the farm and ranch program cleanup the
9 rest of the garbage.

10 As you know, in the three years that the farm
11 and ranch program has been in existence, they spent over
12 \$300,000 and cleaned up fourteen hundred tires. Most of
13 that money in that program is going to cleaning up
14 refrigerators, garbage, old cars and the like. And it's
15 a great program. It's a good program. And money should
16 be allotted for it. But that money should be coming from
17 the Integrated Waste Management account and the used oil
18 account, it should be 50/50.

19 All that money that is in there, that goes in
20 there from the tire fund should be going into either the
21 local government cleanup program or some other type of
22 program that would benefit tire recycling and benefit
23 tire remediation.

24 I think it's, I think it really is a waste of
25 the Board's or the tire fund to spend that money every

1 year, or at least to allocate that money every year into
2 the farm and ranch program.

3 That's all I had to say about that. I think
4 that that does bear some discussion.

5 On behalf of the crumb rubber group, once again
6 I follow Bob Winters who is, who is really the expert in,
7 in the crumb rubber field, and he has his ear to the
8 ground and is watching the change in the markets and
9 watching the change in where the contracts are going.
10 And those contracts are going to out of state crumb
11 rubber.

12 How to deal with the problem? Well, there's a
13 couple different ways. One suggestion is looking at it
14 from the tip fee angle. Artificially increase tip fees
15 at landfills, make a tire chip, make it so you have to
16 bring a tire down to a two inch chip to landfill; we
17 don't approach it that way. We think that that way is
18 going to be, first of all, politically very difficult to
19 would the legislature in that regard; but also it's the
20 possibility of raising some problems of illegal dumping,
21 increased illegal dumping if indeed landfills close off
22 all their gates to the increase of tires or to the
23 disposal of tires.

24 So we're looking at it at the other end. And
25 that's why I think that Bob Winters is appealing to you

1 to look at the various options available from grant
2 programs and subsidies to working with Caltrans. And I
3 know that the Board is sympathetic to this concern, and
4 the Board expressed last month its willingness to work
5 with Caltrans and possibly work with the legislature
6 through a bill AB 400, the Simitian bill, to see about
7 getting a Buy California type of requirement on the
8 Caltrans projects.

9 My only request in this regard would be that
10 maybe next month or so that the Board or staff maybe
11 report back to the Board on the progress that's being
12 made on this. This is something that's fairly urgent in
13 the legislative process --

14 BOARD MEMBER ROBERTI: Madam Chair.

15 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti.

16 BOARD MEMBER ROBERTI: Have we written the
17 letter to --

18 BOARD CHAIR MOULTON-PATTERSON: Yes, I was just
19 going to say that when Mr. Leveille finished. I did
20 write a letter to director Jeff Morales for Caltrans
21 expressing our serious concern, and I'm awaiting for an
22 answer. And I'll certainly get back to the Board just as
23 soon as we hear, and I will pursue that.

24 BOARD MEMBER PAPARIAN: Madam Chair.

25 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

1 BOARD MEMBER PAPARIAN: At this point also, as
2 part of the SB 876 there is a requirement that Caltrans
3 report to the legislature and to the Waste Board on the
4 use of tires in rubberized asphalt. And this report is
5 due to us on January 1st.

6 The report requirements do not include any
7 differentiation in terms of the type of tires that are
8 used in the projects, but I'd like to ask our staff to
9 request from Caltrans that they provide that information
10 in the report that they're due to make to us by January
11 1st.

12 And again, that information would be how many of
13 the tires that they're using or what percentage of the
14 tires they're using or perhaps even by project whether
15 those tires are coming from California or from out of
16 state sources.

17 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
18 Paparian for bringing that up. We will follow up.

19 Sorry, Mr. Leveille, did you wish to continue?

20 MR. LEVEILLE: Thank you. And that's very
21 appreciated. And as I recall last month, Mr. Paparian
22 was also talking about a possible face-to-face meeting
23 with Caltrans and Board member representatives, meeting
24 with the director and maybe discussing the issue
25 face-to-face. And that would be certainly a welcome

1 thing. We'd like to get Caltrans on board this thing.

2 You know, it's not, it's going to be difficult
3 sometimes to, when you ask Caltrans to, you know,
4 diminish their parameters as to their, in their
5 contracting, but obviously this is a very important issue
6 for the state as well as for the Board and for the crumb
7 rubber industry.

8 And then finally, we want to thank the Board for
9 all of its assistance and support for this in their own
10 grant programs and the contracts and the like. You made
11 a statement last month that the Board was committed in
12 your own programs for this type of Buy California and
13 grant to California waste tire products; I think that's
14 certainly very helpful as well, and that the members of
15 the association, the Crumb Rubber Association certainly
16 do certainly appreciate that.

17 Thank you.

18 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
19 Leveille.

20 David --

21 BOARD MEMBER ROBERTI: Madam Chair.

22 BOARD CHAIR MOULTON-PATTERSON: -- Nuss. Yes,
23 Senator Roberti.

24 BOARD MEMBER ROBERTI: I have two ex-partes I
25 forgot to note, if I could do that right now?

1 BOARD CHAIR MOULTON-PATTERSON: Certainly.

2 BOARD MEMBER ROBERTI: One from Assemblyman
3 George Nakano regarding grant support for the City of
4 Lomita, and it was written on March 9th.

5 And one from Assembly Tony Cardenas regarding
6 environmental justice efforts of the CIWMB, and that is
7 dated February 27th of 2001.

8 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
9 you, Senator Roberti. Was that it?

10 BOARD MEMBER ROBERTI: That's it.

11 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
12 you. Mr. Nuss.

13 MR. NUSS: Good morning, Madam Chair and Board
14 members. Thank you very much for allowing me to speak
15 today.

16 I would like to address the issue of subsidies
17 of crumb rubber. I have attended the last several Board
18 sessions during which this issue came up. And I have
19 been involved with the waste industry, waste tire
20 industry for the last fifteen years. Our firm, PRI
21 Consulting, is based in the Bay Area. And we, as a
22 matter of fact, placed a bid on the job that Mr. Winters
23 mentioned, the Shasta County bid.

24 When I bid a crumb rubber job, and I'm going
25 against Mr. Takallou, Mr. Quants, any of the other

1 California processors, the winning margin is usually a
2 tenth of a cent, maybe a quarter of a penny, not much
3 more than that.

4 We were beaten on this job by a penny and a half
5 a pound. It's, it's just unheard of to lose by that
6 amount, particularly when the rubber has to travel from
7 Canada down to California.

8 And now I'm not necessarily an opponent of
9 Canadian rubber, but when I heard at the last two
10 meetings that there were, essentially the testimony I
11 heard was that there are no subsidies. And I thought to
12 myself, I've been in this business a long time, I know
13 what it costs, there are inherent costs in taking a tire
14 from whole tire to crumb, transporting that crumb to job
15 site, and I thought, "How can this product come all the
16 way from Canada down here and beat us by ten to twenty
17 percent on our price, ten to fifteen percent on our
18 price?"

19 So what we did was we contacted Glen Matement
20 with the Rubber Association of Canada, and Rosemary
21 Sutton with Price Waterhouse Coopers who is the project
22 administrator for the Canadian subsidy program. And I
23 merely want to present the information that they gave to
24 us.

25 There are two levels of assistance in Canada,

1 particularly in British Columbia, which is where the
2 crumb came on this project.

3 Number one is transportation assistance, which
4 covers all trucking costs, including labor, from the
5 generator site, or the tire store for lack of a better
6 term, to the disposal site. That cost is one hundred
7 percent underwritten by this project.

8 Now we have in the room today Mr. Randy Roth of
9 Lakin Tire, and I suspect that he'd probably like to have
10 that opportunity, but if, he could certainly testify to
11 the fact that that would be to some benefit, I suspect.

12 Secondly, there is a seven cent per pound,
13 American seven cent per pound subsidy for every pound of
14 crumb rubber that is sold into a method of recycling, and
15 rubberized asphalt qualifies for that under the Canadian
16 definition.

17 So we do have financial assistance, it's
18 unquestionable. Now at the last meeting I heard that the
19 basic lack of competitiveness on our part was because of
20 utility costs, skyrocketing energy costs. That still
21 didn't make sense to me. But these numbers do, they help
22 make sense.

23 And when transportation is covered from
24 generator site to a disposal site when a subsidy of seven
25 cents per pound is paid to the processor. And on top of

1 that I also heard that essentially there are no tipping
2 fees in Canada, and the tipping fees offset any benefits
3 that might be received by the processors in Canada. As a
4 matter of fact, there is an up to fifty cent per tire
5 tipping fee on passenger tires, and up to a three dollar
6 per tire tipping fee on truck tires. And this makes much
7 more sense to me.

8 They have an excellent program. I'm not here to
9 speak negatively about the Canadian program by any means.
10 I think they have a good program, obviously it makes them
11 competitive with us. But to make the argument that there
12 is no subsidy, it's not correct. I just don't agree with
13 it, I believe that's inaccurate. And I have, if I could
14 leave with you, a fact sheet that was sent to us from the
15 rubber association of Canada. Who would I leave that
16 with?

17 BOARD CHAIR MOULTON-PATTERSON: Right over here.

18 MR. NUSS: Okay. I don't know if you have any
19 further questions or not?

20 BOARD CHAIR MOULTON-PATTERSON: Thank you very
21 much.

22 MR. NUSS: Thank you.

23 BOARD MEMBER JONES: Madam Chair.

24 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones has a
25 question.

1 BOARD MEMBER JONES: The, I was briefed last
2 week, as were I think other members, by some of these,
3 the Canadian folks. They, I think they said they got 82
4 or 84 cents a tire, I don't know what the number is, but
5 the government pays that since there is no tip fee.

6 Are you saying that on top of that they get
7 seven cents a pound for every pound of finished product?

8 MR. NUSS: I want to say I'm absolutely not an
9 expert on this subject, I'm really not, I just spoke to
10 them and I can't answer that question. The fact sheet
11 does address in Canadian dollars how the whole program
12 works, it's a one page sheet. But I did hear somebody
13 respond to that issue.

14 BOARD MEMBER JONES: All right. I'll find that
15 out later.

16 MR. NUSS: Right.

17 BOARD MEMBER JONES: But that's another piece
18 that I hadn't heard before until today.

19 MR. NUSS: Well I found it just somewhat
20 confusing at the last meeting, and we just wanted to find
21 out a little bit more about it.

22 BOARD CHAIR MOULTON-PATTERSON: Thank you for
23 the information. We appreciate it and we'll look forward
24 to getting a copy of that.

25 Carl Atkinson.

1 MR. ATKINSON: Thanks for coming to my
2 hometown. This is where I live, my office is in
3 Fontana. Board members, I appreciate the opportunity to
4 talk to you. I brought a few notes with me. I tried to
5 reduce them to one page, and I was hoping I could be last
6 because every time somebody talks I have another question
7 to ask.

8 The first comment is Mr. Leary's comment that
9 these regulations were guided towards tires generated in
10 California. God, I'm fascinated by that. Does that mean
11 now that tire dealers like me can buy tires from Utah and
12 Arizona and not have any regulations at all? I don't
13 know what it means.

14 Does that mean that the cement plants don't have
15 to worry about how the tires get to the cement plans now,
16 I mean there's no regulation, no monitoring, no
17 manifests, no nothing at all now? I mean at least at one
18 time the rules did say that they had to do this, even
19 though they didn't do it they had to do it.

20 The next question had to do with -- well, I
21 forget, I better go in order here.

22 From the very beginning the inspection and
23 citation process in the Board should have been given to
24 the local authorities. At many workshops, several times
25 suggestions were made that the fire departments be

1 incorporated into this process. They are a major
2 stakeholder, and for whatever reason they've chosen not
3 to participate in my direct conversations with some fire
4 authorities in my own area, they've all insisted that
5 they want you to pay 'em.

6 Well I'm not really in favor of that totally,
7 but the fact is that the fire department has in place an
8 annual inspection program in every authority, every
9 community, every jurisdiction in the State of California,
10 that everyone that has tires should be subject to some
11 kind of annual inspection, or more often if necessary.
12 And the fire department with little effort could be
13 incorporated into that process.

14 I don't know how much money you spend on the
15 staff that's supposed to be inspecting, but they do a job
16 that doesn't cover much of the state, it's not getting a
17 thorough investigation, and the fire departments really
18 can do it.

19 In the original meetings in '94 and '95 the fire
20 departments were all invited to come participate in the
21 process that established these regulations and they just
22 didn't show up. And I don't know why, I never could
23 figure that out. I thought they had a big stake in this,
24 I thought it was very important to them and very
25 beneficial to them.

1 Everytime somebody from the state stands up and
2 talks about anything they keep talking about the public
3 safety. Well it seems to me that that's one of the lead
4 areas of public safety is the potential of fires that are
5 generated by the -- or exist by the existence of tires in
6 any form.

7 The PTE's that you keep talking about, and
8 you've talked about it year after year after year, have
9 some beneficial merit with regard to tire derived
10 material where there isn't a measurement, there isn't a
11 unit, but a whole tire should be counted as a whole tire.

12 And the fact that somebody has a tire that's
13 2,449, none of you, none of your staff is ever going to
14 figure out a way to tell you exactly what the PTE is of
15 that tire because you're never going to weigh it. You
16 don't have a facility for weighing that tire. You can't
17 tell how much it weighs. Somebody says it's supposed to
18 weigh so much when it's new, it might weigh so much when
19 it's used, it might weigh so much when it's being buffed
20 for recapping; you don't have any merit, any measure of
21 doing that whatsoever.

22 I think the PTA or the PTE function of this
23 proposed regulation should be dropped entirely or
24 directed towards just those things that aren't measured,
25 such as tire derived materials.

1 Item number four under the state enforcement
2 specifically states that you really don't have any
3 regulations in place for small dealers or people that
4 have less than five hundred tires on hand, or on site.
5 That's not true. The fact that you have never done
6 anything about it is true, but the fact that they are not
7 regulated is not true.

8 They have the same obligation that any one of us
9 has to document the receipt of the tires that they have
10 on sale, or the tires that they have on their site,
11 whether they're for sale or otherwise. They're obligated
12 the same way.

13 And if you're not in a position to monitor that,
14 again, the fire department can. You have to work with
15 the fire department to come up with some relationship so
16 that they can do it.

17 The amnesty days, another issue that the fire
18 department can offer. The fire departments now presently
19 issue a permit for you to burn weeds, etcetera, or
20 whatever, in every jurisdiction in the state --

21 (Thereupon there was a brief unintelligible
22 interruption.)

23 BOARD CHAIR MOULTON-PATTERSON: Excuse me.
24 Continue, I -- hopefully that was just a one time thing.

25 MR. ATKINSON: I thought somebody wanted to ask

1 me a question.

2 BOARD MEMBER JONES: God.

3 MR. ATKINSON: I thought it might have been a
4 fireman, I thought there was a fireman here. All right.

5 The fire department's in a position to offer a
6 one time trip permit to anyone, any individual that needs
7 to take tires.

8 And by the way, amnesty days aren't to get rid
9 of old piles of tires, this is for people that have a few
10 tires in their yard. And I don't know of any amnesty
11 project where a tire dealer was allowed to go pick up
12 something and bring it in for any reason, particularly
13 out of his own inventory. Now I don't know that, but
14 I've never seen that.

15 I have, however, seen bins full of tires that
16 were the result of an amnesty at Yucca Valley when I went
17 into a recycler, into a disposal yard and saw this bin
18 full of tires and told them that I was licensed and
19 permitted and I could handle those tires for him, and he
20 said, "Oh, we don't need any Goddamn permits, we're doing
21 this for the City of Yucca Valley, this is all done." So
22 some truck came in and picked up that rolloff box and
23 hauled it to, I think Mitsubishi which is just over the
24 hill, and disposed of the tires.

25 And I don't know that any of you have any

1 records of that, but you probably paid for it in some
2 form of a grant. I think that a great deal more can be
3 done to monitor that.

4 And as I said, a trip permit means that some
5 individual or resident of an urban community or a farm
6 community can go to the fire department and say on Friday
7 the 16th I want to take some tires to the landfill or I
8 want to take 'em to ADT or Wheels Etcetera or someplace
9 that's legally permitted to accept tires. And the fire
10 department can issue that permit; it's trackable, it's
11 reportable, somebody knows it's being done, and these
12 guys don't have to have a manifest or a hauler permit or
13 any of that stuff.

14 And we're not talking about something that's
15 competing with me as a hauler. I don't care if the guy
16 handles six tires, I just don't want to go get 'em from
17 his yard, or 16 tires or 24 tires. I don't want to go do
18 that. Nobody else wants to go do that. So let him do it
19 legally; record it, document it, follow up the documents.

20 Gosh, following up the documents, that's
21 something you don't do either. Has anyone ever seen a
22 manifest? Have any of you ever actually seen a manifest?

23 BOARD CHAIR MOULTON-PATTERSON: Yes.

24 MR. ATKINSON: I'm glad to hear that, but you're
25 new, and I do appreciate it, honestly. Because in the

1 past no one had ever seen a manifest, no one had ever
2 asked where the tires came from, who hauled 'em, or where
3 they went, or if any of those things were permitted.

4 The major site in this area still doesn't know
5 their own site permit number. They still do not put it
6 on the form. When I take tires to that site they do not
7 record that number on their site, they don't really know
8 that that's part of the form. No one in their staff has
9 ever heard of this site permit number, if available it
10 says on the manifest.

11 The City of Glendale, when councilwoman Bremberg
12 was here I happened to catch her and mention to her that
13 I was going to lambast 'em a little bit, and the truth is
14 I've asked the City of Glendale personally, and this is
15 just, I can't go to every city in the United States -- or
16 the State of California, but I've asked them personally
17 to take some measure with the people, the tire dealers
18 like myself in Glendale that store the tires that they
19 take in on a daily basis in an unprotected area. Do you
20 have any idea what happens to those tires at night? Can
21 you imagine?

22 BOARD CHAIR MOULTON-PATTERSON: Mr. Atkinson, we
23 have a number of speakers on this item, so if you could
24 conclude I would appreciate it.

25 MR. ATKINSON: You should have told me that

1 before, I wouldn't have bothered coming.

2 BOARD CHAIR MOULTON-PATTERSON: Thank you. We
3 have Lynn Nicholson.

4 MR. NICHOLSON: Thank you, my name is Lynn
5 Nicholson, I am the program director of the Los Angeles
6 County Rubberized Asphalt Concrete Technology Center.
7 And I'm also the American Public Works Co-chairman of the
8 Green Book Committee, which is a committee that's under
9 the parent corporation of the public works standard.

10 We do publish the standard specifications for
11 public works, the green book, which is used by most
12 agencies in Southern California, a few in Northern
13 California, a few in other states.

14 As part of the procedure on the Green Book
15 Committee, we have member agencies initiate changes. One
16 of the changes recently initiated or put forth before the
17 committee was a change to the green book which would
18 require crumb rubber from tires in the local state, in
19 this case it would be California tires, which I think
20 goes along with kind of the, the Board's thinking on
21 this.

22 We have referred this to our specification
23 committee. It is now under review by our attorney for
24 the public works standards to see if it conflicts with
25 any federal agreements or any other problems with Buy

1 America or Buy California. But it is under works, and I
2 just wanted to let you know that we are working towards
3 that.

4 And if Caltrans decides in their specifications
5 that they can specify California tires for crumb rubber,
6 I'm sure that the green book will then follow suit almost
7 immediately.

8 The other part of my reason for being here is
9 basically just to answer any questions that you might
10 have regarding the Los Angeles County and the Sacramento
11 County rubberized asphalt technologies.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you. Mr.
13 Paparian has a question.

14 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

15 In terms of the Los Angeles County efforts, can
16 you characterize how receptive local governments are to
17 utilizing rubberized asphalt in their paving projects?

18 MR. NICHOLSON: Very, very receptive. I live in
19 the City of San Dimas, been there for 36 years, and the
20 technology center has been in the business for about four
21 years. And this year I finally got the city to do two
22 major projects using rubberized asphalt.

23 This is happening throughout Southern
24 California. Based on the information that we provide,
25 the information the industry provides, our specifications

1 in the green book, Caltrans specifications, the incentive
2 programs that the technology center administers where we
3 give a dollar per ton for inspection of rubberized
4 asphalt; all of this has led to, I believe a, and I'm
5 going to see quadrupling or even more increased use of
6 rubberized asphalt in Southern California in the last
7 four years, and in the Bay Area now and the Sacramento
8 area it's really starting to snowball.

9 BOARD MEMBER PAPARIAN: Do you have a sense of
10 how many of the local governments have their own asphalt
11 mixing facilities?

12 MR. NICHOLSON: There is one. The City of Los
13 Angeles owns one or two asphalt plants. To my knowledge
14 they're not producing rubberized asphalt from those
15 plants. Every other agency uses contractor's plants on a
16 bid process.

17 BOARD MEMBER PAPARIAN: Is that, to your
18 knowledge is that throughout the state or just in
19 Southern California that L.A. is the only one?

20 MR. NICHOLSON: I believe the City of Los
21 Angeles is the only one that has their own plant. So I
22 may be wrong. But in Southern California that is true.

23 BOARD MEMBER PAPARIAN: And any, is there any
24 reason why they don't utilize rubberized asphalt in their
25 facility?

1 BOARD MEMBER PAPARIAN: I'm not aware of it.
2 They do have a special section, I'm with the county so
3 I'm kind of going by my experience in working with them.
4 They do have a separate division within the Bureau of
5 Public Works that does contracting out, and these
6 projects do not use the city plants.

7 The city plants are used mainly for their
8 maintenance program because they place the asphalt with
9 their own crews.

10 BOARD MEMBER PAPARIAN: Thank you.

11 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
12 Nicholson.

13 Mr. Jones has a question.

14 BOARD MEMBER JONES: Mr. Nicholson, first off, I
15 think that the L.A. Tech Center and the counties have
16 done a good job. I do want to ask a question though
17 about the green book.

18 MR. NICHOLSON: Yes.

19 BOARD MEMBER JONES: This green book, because
20 you know where I've always come from on this, is that
21 we've got an awful lot of time already tested on the wet
22 process.

23 MR. NICHOLSON: Yes.

24 BOARD MEMBER JONES: What process is in the
25 green book that's being, you know, what process or

1 processes for rubberized asphalt is part of the
2 recommendation of the green book?

3 MR. NICHOLSON: Okay. First of all, Mr. Jones,
4 the green book is a specification book, it is not a
5 product book. We do not approve products, we just
6 provide standard specifications for agencies to use if
7 they choose to use it.

8 The green book has specifications for the wet
9 process, and this wet process is in section 200 and 300
10 which is our section of the green book that deals with
11 tried and true processes and specifications. The wet
12 process in the green book basically mirrors the Caltrans
13 type two.

14 We also have a type one option in there if an
15 agency or an engineer wants to use crumb rubber from, a
16 hundred percent from scrap tires instead of the 75/25
17 percent mix in the Caltrans book. We have that also, but
18 we have the option.

19 The part six which is our new materials and
20 processes section, recently we put the dry process, we
21 call it CRMAC, and the terminal blend process, we call
22 that T-MAC, into that section because we found that a
23 number of agencies, especially in Orange County which are
24 member agencies of the, users of the green book, were
25 allowing the use of the dry process and the terminal

1 blend process basically without an approved standard
2 specification.

3 And it was the opinion of myself and the Green
4 Book Committee that the least we could do, since these
5 specifications were developed and have been used by
6 member agencies, including the County of Los Angeles,
7 that we could put these specifications into the green
8 book in case an agency decided to go to the other
9 processes.

10 BOARD MEMBER JONES: Is there anything in the
11 green book though that -- my whole thing is I don't care
12 which of these processes work, but the wet process uses
13 more crumb, correct, than the dry process?

14 MR. NICHOLSON: If you're using the 75/25
15 percent wet process, that uses about two and a half tires
16 per ton.

17 The dry process uses rubber from, a hundred
18 percent from scrap tires, has the same twenty percent
19 binder -- or content in the binder that the wet process
20 has, so that uses about three tires per ton.

21 So in actuality the dry process could use more
22 tires.

23 BOARD MEMBER JONES: And the dry process has how
24 much time behind it as far as available information as
25 far as its structural value and its -- and all I want to

1 make sure is that we, I know we don't fund the green
2 book, but we fund the L.A. Tech Center, and I want to
3 make sure if we're funding it that we're not going to be
4 funding a method that fails without any long-term testing
5 behind it.

6 MR. NICHOLSON: Right. Speaking for the County
7 of Los Angeles, in the last couple of years we've been
8 advertising our projects which do not necessarily take
9 care of the, take advantage of the two to one equivalency
10 of rubberized asphalt that Caltrans developed in the
11 early nineties.

12 A lot of our projects would call for an inch and
13 a half of conventional asphalt. We want to use rubber so
14 we put an inch and a half of rubberized asphalt. In the
15 type of a project in the last couple of years we've been
16 advertising the three processes, contractors can use any
17 of the three processes and we take low bid.

18 I think there's an advantage to doing this, at
19 least on the local level here, is that we have now a
20 number of dry process projects and a number of terminal
21 blend process projects, in addition to the wet process
22 projects, that we have, we are able to evaluate.

23 Now we have not done any real testing of it
24 other than visual. And I have to say that in my
25 inspection workshops in the last year and a half, I've

1 given these workshops to over 1,300 people, including 330
2 from Caltrans this last February, I do encourage all
3 agencies, all engineers, that if they're not familiar
4 with the other processes and are not comfortable with it,
5 the wet process is the tried and true process, and it is
6 a process that has all the field testing and the history.

7 So as far as the Tech Center is concerned, the
8 wet process is number one. I don't know if that answered
9 your question.

10 BOARD MEMBER JONES: It did.

11 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
12 Nicholson.

13 BOARD MEMBER PAPARIAN: Madam Chair, I'm sorry.

14 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

15 BOARD MEMBER PAPARIAN: Can I just follow up? I
16 keep hearing about differences in concerns between the
17 wet process and the dry process and the questions that
18 remain out there, and the testimony we just had indicated
19 there are perhaps some questions remaining on the
20 validity of the dry process.

21 I want to make sure that we have some research
22 money available to address this. I mean, I didn't focus
23 on this in my reading of the report, but it seems like
24 this is the type of research question that ought to be
25 addressed in our, in the research funding in the tire

1 program.

2 BOARD CHAIR MOULTON-PATTERSON: I think that's a
3 good point because it has come up a number of times, so
4 hopefully we'll have some money for that.

5 Thank you, Mr. Nicholson.

6 W. Snow Hume is next.

7 MR. HUME: Good morning. I'm Snow Hume,
8 Controller of Champion Rubber Products Company in the
9 City of Commerce in East Los Angeles. We're not related
10 in any way to Champion Recycling. We're a mold shop, job
11 shop, we've been around about fifty years as of this
12 August.

13 And I appreciate the Board having a hearing in
14 Southern California where we are, I was unable to attend
15 the two Sacramento hearings, and therefore I hope that
16 it's not too untimely for the suggestions I'm going to
17 make here.

18 All my comments are addressed just to the RMD,
19 the research grant element of your five year plan here.
20 And three of them pertain to tire fires and energy
21 combustion of tires, and the fourth one pertains to
22 essentially market development through laboratory
23 testing.

24 The first recommendation I wanted to make, and I
25 think it's not too late for you all to modify it if this

1 interests you, is on your tire combustion toxicity report
2 you have budgeted \$150,000 for fiscal year 01-02, and I
3 realize that starts pretty soon here, in a few more
4 months.

5 And I'd like to recommend that you all earmark
6 5,000 out of that for a comparative study of the
7 combustibility of the sidewall versus tread portions of
8 tires.

9 I've spent the last five weeks of my life
10 literally inside the Perelli plant in Hanford. I'm the
11 vulture of Hanford right now, I've bought up all their
12 tire cord and steel belt, but I've had access to their
13 chemists, and I've also looked at some of the trade
14 literature, and I can assure you, sidewalls are very
15 different from treads.

16 And along with that, I would allocate another
17 5,000, the back to back part of it, to do a comparative
18 study of the toxicity, and really chemical composition of
19 the by-products of those. You're going to be spending
20 140,000 this way on looking at the chemistry really of
21 the by-products of tire combustion, and so you can see,
22 well, let's see how that stacks up with what comes out of
23 sidewalls versus what comes out of treads.

24 I'll just tell you right off the bat, the
25 sidewall by-product is pretty nasty, and think it's worth

1 taking a good long look at why. So that's my first pitch
2 to you, just something to consider.

3 The second pitch I would make to you is down in
4 the element on research involving energy recovery. You
5 have back to back items, really both of which involve
6 burning up of tires, it's just a matter of how.

7 And on the second one where it says energy
8 recovery from tires, I wanted to suggest that you all
9 earmark, since you've got literally millions of dollars
10 for that, I wanted to suggest that you earmark a hundred
11 thousand of that to study the technological and
12 scientific literature on carbon and phosphate separation
13 out of ash.

14 My advisors have told me to keep my pitch real
15 short, so I'll do that. But I just want to say that the
16 typical ash out of anything, whether it's rubber or
17 whether it's the steaks that my mother makes, the result
18 is the same, is that you end up with an ash that has a
19 lot of carbon in it, and it's got a lot of phosphates in
20 it, and if you can practicably pull out the carbon, that
21 can be essentially reclassified and sorted and go back
22 into the carbon stream, because there's a tremendous
23 market for carbon black. And I can tell you that we use
24 a lot of it and it's, it's gone up a lot in expense, and
25 it just seems to me just a shame to put any ash into a

1 landfill when you can salvage the carbon out of it.

2 That being said, the flip side is that you also
3 have phosphates in there. And you all may recall, for
4 instance, the concern about the phosphates from your
5 detergent in your washing machines going into the water
6 stream and creating plumes of algae. Plants love
7 phosphate. There's a big agricultural market in it. And
8 I think were the carbon extracted from ash, particularly
9 tire ash, I think that the phosphates, with just a
10 minimal amount of processing, could be made into an
11 agriculturally usable form, and I just hate to see
12 precious cubic yards taken up to deposit ash when both of
13 its chief components can meet what I believe to be
14 marketable uses.

15 And if you're going to have an MELP facility
16 burning six million tires a year, whatever it is it's
17 going to be, there's going to be plenty of electricity.
18 Instead of maybe 12,500 homes that you have the power
19 for, maybe divert some of those homes worth of
20 electricity to run the collateral equipment to do the
21 secondary processing of the ash. Just an idea, but I
22 think that you can get to the very bottom of it grand
23 total 150,000 bucks.

24 So that's all I'll say about tire fires and
25 energy use of tires. My other pitch I wanted to make to

1 you, this one is much more self-interested. As I said,
2 we are molders, we're also potentially interested in
3 going into what I call the specialty crumb rubber
4 business.

5 I have done a preliminary study and certainly
6 there's people here in the crumb rubber coalition, I have
7 not met any of them and they may correct me afterwards,
8 but my initial study indicates that there are very few
9 crumb rubber producers who are separating sidewalls from
10 tread. There are some out in the state who are doing
11 that, I know that for a fact because I have become privy
12 to the sourcing activity of some of the tire recappers
13 and truck tire manufacturers that I can tell you that
14 they are specing out the crumb that comes from tread
15 portion as opposed to sidewall portion of the tires.

16 But the point I wanted to make in connection
17 with this is that the reason the price for tire crumb is
18 not higher on a filler basis, the reason it's not more
19 competitive in mesh size against equivalent things like
20 carbon black and so on, is because it's inconsistent.
21 It's not what's in there, it's the fact that what is in
22 there is not particularly known, and it can very wildly,
23 depending on the stream of tires that come in. And I
24 believe that pre-classification, that is to say
25 classification of tire parts before shredding, would

1 yield two different streams of chips, and therefore crumb
2 rubber. And I think that a relatively pure tire tread
3 crumb rubber would be extremely more marketable.
4 However, to make it more marketable, you're going to have
5 to do laboratory tests.

6 And again to cut to the chase, I think that if
7 you took a hundred thousand dollars, averaging basically
8 a thousand dollars per compound, you could take every
9 compound here in the "Vanderbilt Rubber Handbook, 13th
10 Edition," and here's one from 1948 when my dad was first
11 starting in the business, you could take these compounds,
12 systematically substitute pre-classified tread crumb
13 rubber into it, find out the impact; there would still be
14 inconsistencies; there will be a range of physical
15 impacts; but if you're going to do that, I think that
16 once you publish all that data you're going to create a
17 whole new market for it, because the reason that
18 engineers, including people like my dad and my compound
19 engineers, don't use more crumb rubber is that the
20 results are unpredictable.

21 And so if you reduce unpredictability through
22 pre-classification, and by having, you know, published
23 literature and standards, something analogous to the
24 green book, I think it would make that stuff much more
25 marketable and it wouldn't cost that much to do it.

1 So I would merely recommend that you consider
2 earmarking out of the, out of say the civil engineering
3 uses for waste tires, because you've got millions and
4 millions there, maybe just to scoop out a hundred
5 thousand and create a line item number seven for a study
6 of the physical properties of standard formularies when
7 pre-classified tread rubber is substituted.

8 And I'll shut up at this point.

9 BOARD CHAIR MOULTON-PATTERSON: Thank you very
10 much for coming.

11 Dr. Barry Takallou.

12 MR. TAKALLOU: Thank you, Madam Chair and
13 members of the Board. I would like to turn your
14 attention to page 36 of the five year plan. And what I
15 calculated, it shows that the Board allocated over \$43
16 million of the taxpayers money for marketing development
17 and new technology activities which is, I admire that,
18 that's excellent.

19 I can see on the same page a line item, size for
20 Caltrans rubber asphalt projects, which is about \$240,000
21 is allocated for Caltrans to set aside to make signs
22 whenever you have rubberized asphalt projects.

23 I had an opportunity a few years ago to work as
24 a consultant to Minister of Environment of Ontario,
25 Canada. And we should learn something from the

1 Canadians. They, as a consultant they actually require
2 all of the tires going to the rubberized asphalt projects
3 must be from even that county. And they wanted to put on
4 the sign how many tires was recycled from that specific
5 county which would put our rubberized asphalt projects.
6 And at the time they didn't have their own processing
7 facilities over there, and they required even we ship the
8 tires from Canada to United States to process them and
9 bring the rubber back to Canada.

10 What I'm getting at, I think if you're paying
11 for \$240,000 to Caltrans to put the signs, I'd like to
12 require Caltrans, like a couple of the budgets like Mr.
13 Bob Winters mentioned like the Mt. Shasta British
14 Columbia tires recycles the roads, I think that would be,
15 you know, show how many, you know, Caltrans contributing,
16 you know, actually contributing to their program.

17 And you have heard from my other colleagues, by
18 other companies in the crumb rubber business in
19 California some of the problems. And now we're looking
20 for a solution.

21 And I would like one of the solutions, as Mr.
22 Nicholson mentioned, was requirement of Caltrans to
23 include use of crumb rubber produced in California in
24 their specifications.

25 One of the models is the Arizona Department of

1 Transportation specification. Arizona Department of
2 Transportation rubberized asphalt specification requires
3 crumb rubber used in rubberized asphalt projects shall
4 come from the tires taken from automobiles driven in the
5 United States. So this is already a model that is in
6 existence. And if Caltrans chose to follow, this is
7 already in the books, and it can be done.

8 So I'm going to give a copy of this for your
9 records, and I would recommend, if you can, on the signs
10 which report on what we paid Caltrans, required to put
11 the sign of which tires are being recycled, are we
12 recycling British Columbia tires? Put it on there. Let
13 the public see what the taxpayers money is going to. I
14 appreciate it.

15 BOARD CHAIR MOULTON-PATTERSON: Thank you, Dr.
16 Takallou.

17 Elizabeth Mann is our next speaker.

18 MS. MANN: Thank you, Madam Chairwoman and the
19 remaining members of the Board. I am aware, I'm with a
20 term called McDermott, Will & Emery. I represent an
21 entity called CMS Generation which has been involved in
22 the Wesley tire fire site. And I have a couple of
23 questions about the proposed five year plan.

24 But before I ask if the record could be
25 augmented to answer some of these questions, I just

1 wanted to give the Board a little information about CMS
2 and its response with respect to the Wesley tire fire
3 site.

4 CMS owned the stock of a subsidiary, OTR, which
5 had some involvement in this site five years ago. It
6 didn't have any ownership interest of anything on the
7 night of the fire. CMS has been brought into litigation,
8 which I'm not really here to discuss, but I would just
9 like the record to be clear that in an effort to resolve
10 these difficulties, and in part because CMS is a
11 responsible corporate citizen, it has spent \$800,000
12 remediating certain problems at the Wesley tire fire
13 site, and is in the process of entering into an
14 arrangement with the State of California to spend a
15 significant additional sum such that monies can be
16 contributed to see these problems resolved.

17 CMS hasn't done that because its lawyers
18 conclude it hasn't got any responsibility here, but it
19 does make sense to act as a responsible corporate
20 citizen.

21 With that foundation I just have one question
22 with respect to the five year plan that is before the
23 Board. On page 16 of the five year plan there is a
24 report here of proposed funding for long-term remediation
25 projects by fiscal year. And if you see at the bottom it

1 is proposed that the Wesley tire fire site in Stanislaus
2 County, that there be \$6 million in the immediately
3 upcoming fiscal year, and various significant dollars
4 expended thereafter.

5 To be quite candid, since my client CMS is in a
6 big fight about who pays for what at the Wesley tire
7 site, and you know, we hold that view that we have
8 certainly made contributions above and beyond our
9 responsibility, I think that we'd be interested in
10 knowing and that the citizens of California would be
11 aided if the record could be augmented here before this
12 proposal is approved so that we would have some
13 information from the Special Waste Division with respect
14 to what the \$6 million in the next fiscal year is going
15 to be spent and, in particular, whether any of that \$6
16 million is earmarked for the request of the Modesto
17 Energy Limited Partnership to receive a subsidy of three
18 and a half million dollars to reopen the facility.

19 So if I could be so bold as to ask that the
20 record be augmented to supply some information with
21 respect to that, I will conclude my remarks, and
22 appreciate the Board's time.

23 BOARD CHAIR MOULTON-PATTERSON: Thank you.

24 BOARD MEMBER JONES: Madam Chair.

25 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

1 BOARD MEMBER JONES: This is a legal issue we're
2 in the middle of negotiations with, I don't think it's
3 appropriate for us to even address this until, until our
4 lawyers give us a little bit of guidance here on how to
5 deal with it. But I wouldn't want to see anybody do much
6 here until, I mean we're in the middle of negotiations
7 with these people.

8 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
9 you, Ms. Mann.

10 MS. MANN: I appreciate your time. Thank you.

11 BOARD CHAIR MOULTON-PATTERSON: Michael
12 Harrington.

13 MR. HARRINGTON: Madam Chair, members of the
14 Board, I'm Mike Harrington with Western Rubber
15 Processors, and we supply crumb rubber to the state of
16 California, including rubber from British Columbia.

17 I just wanted to make three quick answers to
18 some of the statements that were made and questions that
19 were asked, possibly it will help you.

20 We were talking about the total fee paid to a
21 recycler in British Columbia making crumb rubber. Based
22 at today's dollar rate, that's 91 cents in total to the
23 BC recycler.

24 Now, in addition to that there is a one hundred
25 percent transportation reimbursement paid to the tire

1 hauler in an effort to make sure that all of British
2 Columbia tires make it to an approved disposal site or
3 recycler.

4 Number three, the amount of rubber we're talking
5 about bringing in or marketing into California is the
6 same quantity as has come in for the past several years,
7 being sold to the same California tire recyclers that are
8 quite upset about it now; the only difference being that
9 instead of coming in as feedstock that they will process,
10 is that Western Rubber Supply will process it. We're,
11 initially we were going to process in California prior to
12 accelerated energy costs, and decided to do it outside of
13 the state.

14 The quantities that we're talking about, again,
15 are no greater than have come into the State of
16 California through the same tire recyclers that have been
17 talking to you today.

18 Thank you.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
20 Harrington.

21 BOARD MEMBER JONES: Madam Chair.

22 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

23 BOARD MEMBER JONES: Mr. Harrington, when that
24 stuff used to come in from Canada and go to these vendors
25 it was sold to the vendors. Now, in fact, it is

1 competing with those same vendors with this subsidy.

2 MR. HARRINGTON: It is --

3 BOARD MEMBER JONES: There is a difference.

4 MR. HARRINGTON: It is competing with the same
5 recyclers, however I don't think it's a subsidy. I mean,
6 you know, by any other word, the reimbursement rate,
7 tipping fee, or subsidy is a total of 91 cents per tire
8 or \$91 per ton, which is in line basically with the rest
9 of the nation.

10 BOARD MEMBER JONES: What's the subsidy for the
11 scrap steel that comes off the tire?

12 MR. HARRINGTON: That's included in the 91
13 cents. That's the total reimbursement.

14 BOARD MEMBER JONES: Got it.

15 BOARD CHAIR MOULTON-PATTERSON: Thank you.
16 Randy Roth is our next speaker.

17 MR. ROTH: Randy Roth from Lakin Tire. I'd like
18 to make a quick clarification of an issue that was
19 brought up at the last session. Effective March 1st
20 Lakin Tire will no longer import tires from the state of
21 Utah into California, and as a result of that, California
22 Portland Cement will no longer burn Utah tires. That was
23 an issue that was brought up at the last meeting. Okay.

24 BOARD CHAIR MOULTON-PATTERSON: Did you say
25 Utah?

1 MR. ROTH: Utah. That's a function of them
2 changing their legislation.

3 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

4 BOARD MEMBER JONES: Will they still have a need
5 to use tires in that facility?

6 MR. ROTH: Oh, yeah.

7 BOARD MEMBER JONES: California tires?

8 MR. ROTH: For sure.

9 BOARD MEMBER JONES: I just wanted to make sure.

10 MR. ROTH: Of the -- Mr. Jones, of the million
11 tires we sent to them last year, approximately 70,000
12 were Utah tires, so it's seven percent. It was not a big
13 deal, but Utah has now changed their program, the
14 processors needed to be in the state to have the
15 reimbursement, so whole tires I don't think will any
16 longer flow into the State of California, but finished
17 product still might in the form of crumb rubber.

18 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
19 Roth. That ends our public comments on this item and
20 I'll open it up to Board members.

21 Mr. Medina.

22 BOARD MEMBER MEDINA: If you'll go to Mr.
23 Paparian, because I have some language that I'd like to
24 insert.

25 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.

1 Paparian.

2 BOARD MEMBER PAPARIAN: I have some language
3 also, but either way. Mine may be quick, I don't know.

4 BOARD MEMBER MEDINA: Go ahead.

5 BOARD MEMBER PAPARIAN: Okay. Just a couple of
6 items I wanted to mention. One of my, one of the issues
7 that I was pursuing with the staff and I'm glad to see it
8 in the report is to explore a potential relationship with
9 one of our universities in California to assist us in
10 evaluating our research program; and evaluating some of
11 the proposals that have come our way; and perhaps even at
12 some point establishing some expertise within our own
13 university system so we don't have to look out of state
14 for assistance in the research issues that come our way
15 regarding tires.

16 If you notice on page 22, this is where the
17 reference to the work on this issue will be. And staff
18 is suggesting that they will evaluate the creation of a
19 tire research center at one of the California's
20 universities.

21 If there's no objection from the Board I'd like
22 to, through my office, work with the staff on the
23 development of this idea, and report back to the Board in
24 a few months on the prospects and potential for
25 partnering with one of our California universities on

1 research and tires.

2 BOARD CHAIR MOULTON-PATTERSON: That would be
3 great.

4 BOARD MEMBER PAPARIAN: My second item is on the
5 next page, and that is the paragraph about energy
6 recovery from tires. We have in the plan \$500,000, then
7 a million dollars, and then \$500,000 for a total of two
8 million dollars for various activities related to energy
9 recovery from tires.

10 There are some very specific items in this
11 paragraph. And what I, among other things actually
12 contracting with a testing laboratory to provide
13 emissions and ash characterization testing services, I've
14 had meetings with the, some of the cement kiln operators
15 and with co-generation folks, and haven't been aware of
16 their desire for state funding on some of these areas. I
17 may be wrong, but I'm, on the one hand, you know,
18 wondering whether there's really a \$2 million need for
19 assistance to the cement kilns and co-generation
20 facilities.

21 On the other hand, we are facing some major
22 energy problems in the state, as we all know, and energy
23 is the, or at least transformation is one of the
24 priorities that we're supposed to look at, it's actually
25 third on the three priority list, but it is on the list.

1 So back in terms of this paragraph, I'd like to
2 find a way to make the proposed spending of the money
3 more general in the energy area so that we're not
4 necessarily restricted to these very specific things that
5 benefit the cement kilns and co-generation facilities,
6 but rather have the opportunity, if the potential arises,
7 for using this funding to assist in research that will
8 provide energy benefits to California.

9 So I'm not necessarily saying don't use it for
10 all these purposes, but make it also potentially
11 available, depending on what we find out about the energy
12 recovery potential of tires to other energy uses, and not
13 just cement kilns and co-generation facilities.

14 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
15 you.

16 BOARD MEMBER EATON: You want to clarify that a
17 little bit? I'm not sure what you're trying, what are
18 you trying to get at?

19 BOARD MEMBER PAPARIAN: As the paragraph is
20 written I see it, I see that spending restricted to some
21 very specific activities that benefit the cement kiln and
22 co-generation facilities. What I'm suggesting is to make
23 the description more general to energy recovery
24 activities.

25 If, for example, in the paragraph above, the

1 pyrolysis gasification and liquifaction potential proves
2 itself out in some way, and I have no reason to know one
3 way or the other whether it will prove itself out, but if
4 it did prove itself out that might become more desirable
5 than some of the activities in the second paragraph.

6 Likewise, I know several of us had presentations
7 from a vendor who claims that their process is not
8 pyrolysis, is not gasification, and is not liquifaction,
9 it's something else, yet maintains some energy benefits.
10 If that proposal were to prove beneficial, it may be
11 desirable to spend some money in that area.

12 BOARD MEMBER EATON: Well one of the reasons for
13 the ash characterization and some of those where you
14 think they may benefit cement kilns is there's research
15 now by the United States Department of Agriculture that
16 takes that ash and puts it in dairy manure, and it cuts
17 down on the salt content; and therefore, is able to be
18 used in the dairies in the Central Valley that are now
19 hopefully going to get relocated from Southern California
20 up there, although I think there's going to be a long,
21 long wait.

22 Hopefully you're not going to try and dispense
23 with those kinds of activities and that research, because
24 while that may be indirectly benefiting a particular
25 stakeholder, what it does is generally solve another

1 problem. And that's one of the reasons how I read it, at
2 least in the paragraph itself.

3 BOARD MEMBER PAPARIAN: And I don't see how that
4 would be precluded from what I'm suggesting.

5 BOARD MEMBER JONES: So you're just saying that
6 it needs to be opened because --

7 BOARD MEMBER PAPARIAN: Open it up a little bit
8 more, yeah. And give us, give us a little flexibility as
9 we discover what the best uses of our research dollars
10 are going to be.

11 BOARD MEMBER JONES: Because the second --
12 Madam Chair.

13 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

14 BOARD MEMBER JONES: The second line says, "This
15 project will be similar to past IWMB support from tires
16 and may include the following activities." Is the may
17 include enough? Because I, I hope that it's broad enough
18 that we can look at a whole lot of things, you know, in
19 this, through this paragraph.

20 BOARD MEMBER PAPARIAN: Yeah, and that's my hope
21 too. And perhaps what I can do, I suspect we're not
22 going to finish this before the lunch hour, perhaps what
23 I can do is after the lunch hour come back with some more
24 specific language of which I'm getting at.

25 BOARD MEMBER EATON: Is may broad enough though?

1 BOARD MEMBER PAPARIAN: By itself it is, but
2 with the further clarifications in the rest of that
3 sentence and the following sentence, I'm afraid it might
4 not be.

5 INTERIM EXECUTIVE DIRECTOR BRUCE: Could I
6 suggest that the comment be "may but not limited to,"
7 would that suffice?

8 BOARD MEMBER EATON: Including but not limited
9 to?

10 BOARD MEMBER JONES: Yeah. Would that work?

11 BOARD CHAIR MOULTON-PATTERSON: Is that okay
12 with you, Mr. Paparian?

13 BOARD CHAIR MOULTON-PATTERSON: Because it was
14 my thought that we would finish this before lunch, but
15 maybe I'm being optimistic.

16 BOARD MEMBER JONES: No, I got issues too.

17 BOARD MEMBER EATON: He's gotta vote. You think
18 about it, Mr. Paparian, because I've got a few questions.

19 BOARD MEMBER PAPARIAN: Okay, good. Go ahead.

20 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton.

21 BOARD MEMBER EATON: Perhaps in your research
22 with the university you could look at the UC Merced
23 campus perhaps, because that would be a timely place to
24 put the research center, wouldn't you agree?

25 Anyway's, getting right back to the report

1 here. Mr. Leary, on page seven of the report you talked
2 about compliance, bringing all permitted facilities into
3 compliance for permit conditions by 2006. It seems to me
4 to be a long, long period of time if they're already
5 permitted five years to bring 'em into compliance. What
6 are we trying to get there? And why would, wouldn't we
7 want to have permitted facilities brought into compliance
8 earlier?

9 I've got a few of those in here as well. If
10 they're permitted, I mean we have annual inspections, we
11 have, you know, all these other kinds of things, unless,
12 you know, are we -- when we first became an organization
13 landfills and other things hadn't really been brought
14 under the auspices of, you know, of a lot of regulation,
15 so I'm sort of wondering if these are already permitted,
16 what are the non-compliance issues? And if so, why the
17 duration, the length of the duration?

18 MR. LEARY: With your -- let me refer to Martha
19 on that one.

20 MS. GILDART: What we found over the years is
21 several of the permitted facilities move in and out of
22 compliance with time. In some instances the trouble is
23 that they're a, a processing business with a flow of
24 tires, and a small anomaly in the economics of the
25 marketplace can cause them to suddenly stockpile large

1 numbers of tires exceeding their permit limits.

2 And that we have had several enforcement
3 actions, and there are people in this room who can speak
4 to those, on facilities who are legitimately striving to
5 comply with the permits, but have not been able to
6 achieve steady state compliance.

7 We are hoping to work with these facilities,
8 either in their own conduct of their business or perhaps
9 in some modifications, if necessary, to recognize such as
10 the financial assurance requirement to help them in the
11 long run comply on a regular basis.

12 And there are also a number of facilities that
13 we have not inspected as regularly as we would like. I
14 believe you remember the RTI permit that came before the
15 Board last month where the Board specified a wish to see
16 quarterly inspections rather than the annual inspection.

17 I think if we can work towards that it would
18 help some of these facilities in their compliance. If
19 that timeline seems too far out, we can look at adjusting
20 it.

21 BOARD MEMBER JONES: Madam Chair, just one
22 follow-up question to that, Martha. As part of, because
23 I'm a little confused by it too, but I guess with permit
24 conditions, is part of the plan to do some kind of an
25 educational training or some kind of understanding of

1 what the rules are with these folks similar to what we're
2 doing, similar to what an LEA does with some operators on
3 an ongoing basis to try to get them into compliance.
4 Would that be included in this?

5 MS. GILDART: That would be a part of it. Also
6 their understanding of the anomalies that affect their
7 business, and whether or not that requires them to
8 transfer storage mechanisms for the tire or something.
9 What we're seeing are peaks and valleys in operations
10 that are difficult for them to respond to without coming
11 into conflict with our permit requirements. We don't
12 always get our staff out as regularly and quickly as we
13 would like. We're trying to enhance both sides of that
14 equation and work with them.

15 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

16 BOARD MEMBER MEDINA: Madam Chair.

17 BOARD CHAIR MOULTON-PATTERSON: Did you want
18 to go on, Mr. Leary?

19 MR. LEARY: This is a further enhancement or
20 supplement to Martha's response. I think another reason
21 we contemplated 2006 because 876 will drive the Board to
22 develop further regulations to implement 876. And as the
23 regulations are developed, maybe permit conditions will
24 be altered.

25 And as we've all experienced here at the Board

1 and any other regulatory agency, the development of
2 regulations takes quite some time, and then the response
3 bay the regulated industry to comply with those
4 regulations takes a little bit of time as they gear up.

5 So it may be a little longstanding in the
6 progression of 2006, but I think that nay be part of our
7 thinking, that is part of our thinking as we move
8 forward.

9 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
10 Leary.

11 Mr. Medina.

12 BOARD MEMBER MEDINA: Yes, Madam Chair, I have
13 some changes I'd like to propose. First of all, on page
14 one of the report, the second paragraph, last sentence of
15 the second paragraph, I'd like to delete the last
16 sentence and substitute another sentence which reads as
17 follows:

18 BOARD CHAIR MOULTON-PATTERSON: Where are you?
19 Are you on the --

20 BOARD MEMBER MEDINA: On page one, second
21 paragraph of the five year plan.

22 BOARD CHAIR MOULTON-PATTERSON: Okay, second
23 paragraph, the last sentence of the paragraph, delete the
24 last sentence and substitute the following sentence:

25 "Many of these tires are dumped in low

1 income and are underserved, are
2 disproportionately impacted communities, such as
3 reservations and rancherias, and communities
4 along the border with Mexico."

5 That would be the substitute sentence on page
6 one.

7 On page forty. On page forty I'd like to
8 substitute under, and it's at the top of the page, the
9 bullet's at the top of the page, I'd like to add a bullet
10 that says, "Develop a training program -- " it's already
11 in there, I just want to make slight change.

12 "Develop a training program to assist
13 Mexican used and waste tire haulers to meet the
14 legal requirements for hauling tires in
15 California."

16 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
17 you, Mr. Medina.

18 BOARD MEMBER JONES: Just a question --

19 BOARD MEMBER EATON: Could you just read the
20 paragraph on one back again? I don't have a problem, I
21 just have a problem because I don't know if we've got all
22 of the groups that we want to get in. I didn't hear the
23 first part of it.

24 It was like many of these tires are dumped in
25 low income and/or underserved wasn't it?

1 BOARD MEMBER MEDINA: Yeah, page one second

2 paragraph would read,

3 "Many of these tires are dumped in low
4 income, and are underserved, are
5 disproportionately impacted communities, such as
6 reservations and rancherias and communities
7 along the border with Mexico."

8 BOARD MEMBER EATON: I think, I think if we
9 could just also include rural as well as urban. Because
10 we've got some other traditional kinds of communities
11 where other dumping is going on, can we expand the list?

12 BOARD CHAIR MOULTON-PATTERSON: I agree. You
13 have no problem with expanding it to --

14 BOARD MEMBER MEDINA: Rural or urban, no.

15 BOARD MEMBER EATON: Yeah, I'm trying to get
16 into a much more inclusive arena as well. You know, what
17 we're doing here is kind of we want to make it as broad
18 as possible so that those that have been traditionally,
19 all of which have been mentioned are included as well.

20 BOARD MEMBER MEDINA: Rural and urban is
21 acceptable to be included as well.

22 BOARD CHAIR MOULTON-PATTERSON: Thank you. Mr.
23 Jones, did you have anything else to put in there? Okay.

24 BOARD MEMBER EATON: I've got a few more.

25 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.

1 Eaton.

2 BOARD MEMBER EATON: I've got a few in there,
3 got a little time, I love it. All right.

4 Page eight and nine of the report. Enforcement
5 is a very, very big part of why we got the money. When
6 do you hope to, in the second paragraph "Enhanced
7 Enforcement," when do you hope to have those PY's on
8 board? There's an additional nine full-time positions
9 including two lawyers. When can we expect those to be on
10 board?

11 MR. LEARY: When do I personally hope?

12 BOARD MEMBER EATON: Well yeah - I mean, no.
13 No.

14 MR. LEARY: Yesterday.

15 BOARD MEMBER EATON: See, and I want to thank
16 you because you were more specific about the sites.

17 I'm looking at this as a report I would look at
18 if I were a staff consultant for either one of our budget
19 subcommittees which this is going to go through as well
20 as the other committees.

21 I think it's important that we make the case,
22 irrespective of what others may think, that these
23 positions are needed now and not later. If we get them
24 funded two years from now or three years from now, or
25 three, one year; three the next year; and three the

1 following; we might as well forget about an enforcement
2 plan.

3 So what I would like to be able to find out is
4 when do we need to have these positions in order to meet
5 this plan? And that's the kind of specificity that we
6 need.

7 It happened in each, we're going into a friendly
8 confines for the most part. It was raised at the special
9 committee on the Wesley tire fire by Assemblyman Dennis
10 Cardoza; it was raised in the subcommittee in both the
11 Assembly and the Senate; and it was raised again by
12 Senator Escutia, one of the authors of the bill about the
13 lack of enforcement that we have due to the fact of our
14 personnel.

15 So I just want to know when, you know, when you
16 hope to have these. It says 01/02-05/06. Well that's,
17 again, five years. So we could do one, and then we could
18 follow it by three, followed by four. I'd like to see
19 that changed, you know, by what we need immediately.

20 Because how are you going to bring these
21 permitted sites or non-permitted sites into compliance by
22 the year 2006 if you don't have the staff?

23 MR. LEARY: If we need to make it clearer, Mr.
24 Eaton, I'd be happy to improve the language here. But it
25 is our intention to add all additional staff designated

1 in this plan as soon after the start of the fiscal year
2 as we possibly can.

3 And my limited understanding of the
4 administrative and budget act process is that we are
5 somewhat limited in our ability to hire prior to the
6 Governor's signature on the budget act, but once that
7 signature occurs, we will have the skids greased with our
8 admin shop to immediately fly announcements and start the
9 recruitment process to fill every one.

10 As I, as I, if I haven't made it clear in the
11 plan we can make it clear. But there is no tempering or
12 no scheduled implementation of the bringing on of staff.
13 We are anticipating getting staff on board on day one or
14 as soon thereafter as we can make it happen.

15 BOARD MEMBER JONES: Just a question.

16 BOARD MEMBER EATON: Go ahead.

17 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

18 BOARD MEMBER JONES: I know we've got to get out
19 of here, but real quick, if we're going to, if you're
20 going to be successful, if we're going to be successful
21 as a Board you need those people.

22 MR. LEARY: Absolutely.

23 BOARD MEMBER JONES: So maybe a way to deal with
24 that piece is to say that our success to meet our goals
25 and objectives is dependent on, one of the dependent

1 issues is that we get those people. And I don't think
2 many people would have problems with including that kind
3 of language to at least make the legislature and
4 everybody aware, as well as finance, that it's dependent
5 on these folks.

6 BOARD MEMBER EATON: I've just got a couple of
7 more, I know everyone's stomach, I can hear it up here.

8 Page 11. How many inspections do we do already
9 per year? You say you want to increase the number of
10 inspections conducted by twenty percent per year through
11 the year 2006; how many do we do this year?

12 MR. LEARY: I'd have to again defer to Martha
13 who's much more familiar with the program details.

14 BOARD MEMBER EATON: Because if we only did
15 fifteen, or say we did ten, twenty percent would be two
16 extra. So I'm really looking at what the numbers are.
17 Because I'd like to see part of, you see, Mark, what I'm
18 trying to do is to tie in the positions to the need that
19 exists out there to get enhanced enforcement going.

20 MS. GILDART: I don't know that number off the
21 top of my head, but we have reported on the annual
22 inspections done in both our annual report and in various
23 agenda items. I could get it to you very quickly, it's
24 more on the order of a couple hundred inspections each
25 year, but I don't have that memorized, I'm sorry.

1 BOARD CHAIR MOULTON-PATTERSON: When Mr. Eaton
2 finishes we're going to take a lunch break, so if you
3 need to research that there will be time.

4 MS. GILDART: Okay.

5 BOARD MEMBER EATON: Okay. The other thing I
6 wanted to just talk about before we go to lunch is the
7 manifest system. My understanding on the manifest
8 system -- and I'm looking at what page that is -- page
9 39, is that it's going to, assuming we get going, you're
10 looking at almost two years to get the manifest system up
11 and going, eighteen months, I think, isn't it?

12 MR. LEARY: Yes.

13 BOARD MEMBER EATON: According to the budget
14 hearing constraints.

15 MR. LEARY: Right.

16 BOARD MEMBER EATON: What I'm trying to get at
17 is why in the report are we placing more emphasis on the
18 manifest system? Whether it be enforcement or illegal
19 sites or the public testimony, the issue has been, and
20 you can see what happens in Canada by their system, that
21 they track the tires from the beginning to when they're
22 first disposed of at, you know, a store or any other
23 place, to the hauler to the end user. To me that seems
24 critical to finding out where they're going. Because if
25 you know where they're tracking and where they're going,

1 if they don't show up on the log, they're out on some
2 road, and you can go after that person.

3 So I'm a little concerned that the fact that we
4 haven't placed any emphasis on a manifest system, so when
5 you go back to the legislature in two years with your
6 update you'll have no manifest system, and that's
7 critical. And you'll have 30 million tires generated and
8 no tracking system.

9 MR. LEARY: I absolutely share your sense of
10 priority.

11 BOARD MEMBER EATON: Is there a way we can beef
12 it up to say it can get done this next fiscal year?

13 MR. LEARY: I don't believe so, Mr. Eaton, and
14 what I understand is that there are a number of
15 complications.

16 And what I think we're trying to promise here is
17 full implementation and compliance with the manifest
18 program that we built gradually, but in an ambitious or
19 an aggressive program over the next eighteen months.

20 But what we're promising here is full
21 compliance. That we will be able to produce, as a Board,
22 for the legislature or for the stakeholders, detailed
23 reports on exactly what you've just said, the flow of
24 every single tire throughout the State of California.
25 And we think realistically that will take eighteen

1 months.

2 One, because we've got forms to develop,
3 electronic data systems to create and manage, and we have
4 to develop regulations that will require the deep, the
5 details of the manifest and hauler compliance program to
6 be in a regulation than to force those haulers to comply
7 with the regulations.

8 So it's not only the electronic construction of
9 the system, but it's the embracing of that system by our
10 stakeholders, as well as the need for the development of
11 regulations so that we can meaningfully require that
12 compliance and take enforcement actions for those
13 facilities that violate that system, or that we find out
14 there are tires in our exception report that have left
15 one generation point A but never got to disposal point B.

16 But to do that we have to have regulations in
17 place, we have to have a meaningful enforcement program
18 in place, and we think eighteen months is being
19 ambitious.

20 BOARD MEMBER EATON: And the stakeholders have
21 already signed off on the manifest system because /that
22 was one of the things that they felt was very beneficial
23 to them.

24 MR. LEARY: Absolutely, the support it
25 wholeheartedly.

1 BOARD MEMBER EATON: And so I don't any problem
2 with regulations. And they also felt, and I think you
3 would agree, this is a critical issue, so therefore
4 emergency regulations could be implemented prior to any
5 sort of formal rulemaking process. And I think that --
6 go ahead, Mr. Jones.

7 BOARD MEMBER JONES: I just have a question.

8 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

9 BOARD MEMBER JONES: Eighteen months to become
10 fully operational is one piece. Maybe a piece that needs
11 to be added here is that we are going to roll out
12 different stages, even if they're more manual,
13 immediately, I mean, or as quickly as we can get 'em
14 done, so that we can start getting the input.

15 We've still got to figure out how this stuff is
16 going to flow. So it, there's enough money in this right
17 now that we could deal with development of that, of the
18 form, and with the mailing costs of getting those to our
19 facility.

20 What we're still working on, what still has to
21 be developed is the electronic data recovery and how to
22 make that as easy as possible. And that is going to take
23 a long time.

24 But is there room in this to include that we'll
25 do this? It's, we may be redundant, but we'll do it in

1 stages to get this as quickly as possible.

2 MR. LEARY: Certainly.

3 BOARD CHAIR MOULTON-PATTERSON: Again, maybe we
4 could work on some language for that when we come back.

5 Did you have some more, Mr. Eaton, before we go
6 to lunch?

7 BOARD MEMBER EATON: No.

8 BOARD CHAIR MOULTON-PATTERSON: Okay. We'll
9 take a lunch break until 2:30. Thank you.

10 (Thereupon the luncheon recess was taken.)

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1 AFTERNOON SESSION

2 --oOo--

3 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton, do
4 you have any ex-partes?

5 BOARD MEMBER EATON: None to report.

6 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

7 BOARD MEMBER JONES: Terry Leveille, and then I
8 put, and I'm going to butcher his last name, but anyway I
9 put our staff together with somebody that needs to get a
10 permit. And I think that's it, a couple of LEA's from
11 San Diego County.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you.
13 Mr. Medina.

14 BOARD MEMBER MEDINA: None to report.

15 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

16 BOARD MEMBER PAPARIAN: None.

17 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti.

18 BOARD MEMBER ROBERTI: None.

19 BOARD CHAIR MOULTON-PATTERSON: And I have
20 none. Okay.

21 We'll continue with item, we're still on number
22 two.

23 Mr. Eaton, had you finished your comments? You
24 might have, I might have cut you off in the middle of
25 them, I'm sorry if I did.

1 BOARD MEMBER EATON: I think so for the time
2 being.

3 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr. Jones
4 were you up?

5 BOARD MEMBER JONES: I think I'm almost up,
6 Madam Chair, something's being read right now.

7 BOARD CHAIR MOULTON-PATTERSON: Oh, okay. Okay.
8 Any other questions by Board members? At this point, did
9 you, I guess you had a chance to look at some of the --
10 oh, okay.

11 Thank you for your patience, I think we have
12 some language we want to incorporate.

13 BOARD MEMBER JONES: Madam Chair.

14 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

15 BOARD MEMBER JONES: I'm trying to work through
16 one piece and I need Mr., I want to ask Mr. Paparian a
17 question on page 23 of the report where it's energy
18 recovery from tires. Where you say, "This project would
19 be similar to past IWMB support for energy recovery from
20 tires, and may include the following activities:" Are
21 we going to add, "but not limited to" there?

22 BOARD MEMBER PAPARIAN: Yes.

23 BOARD MEMBER JONES: Okay. So then we keep, I'm
24 trying to remember what was on your sheet and I'm trying
25 to work through there.

1 BOARD MEMBER PAPARIAN: That was not on there,
2 but that's fine. That's good.

3 BOARD MEMBER JONES: So we're, tell me what,
4 what needs to be written. I see that --

5 BOARD MEMBER PAPARIAN: I'd like to add into the
6 list of items there the phrase, "Research into promising
7 energy recovery technologies."

8 BOARD MEMBER JONES: Okay. Where at? Because
9 it says, "Emission and ash testing, fuel feed system
10 development, fuel sizing analysis, capacity and
11 production optimization."

12 BOARD MEMBER PAPARIAN: You can just put it at
13 the end there is fine.

14 BOARD MEMBER JONES: Okay. So add here the
15 language that would say what?

16 BOARD MEMBER PAPARIAN: "Research into promising
17 energy recovery technologies."

18 BOARD CHAIR MOULTON-PATTERSON: Okay.

19 BOARD MEMBER JONES: Energy technologies, okay.
20 and then, "The IWMB would contract with testing
21 laboratories to provide emission -- "

22 BOARD MEMBER PAPARIAN: That's, yeah, that's the
23 sentence we were talking about striking just because it's
24 somewhat redundant. And it's the only thing that's
25 singled out of the previous items. If you strike --

1 BOARD MEMBER JONES: So it doesn't stop us from
2 doing it, it just --

3 BOARD MEMBER PAPARIAN: There's nothing to stop
4 you from doing it, it's just to clean up the paragraph,
5 right.

6 BOARD MEMBER JONES: Okay. And then it would
7 say, "Other activities will be accomplished through
8 contracts and grants?"

9 BOARD MEMBER PAPARIAN: Correct, and then stop
10 the sentence right there.

11 BOARD MEMBER JONES: Okay. So, in fact, we
12 could give a grant, if the, if the testing was not
13 through the Waste Board, we could give a grant to
14 somebody that applied to test at one of their facilities?

15 BOARD MEMBER PAPARIAN: Yes.

16 BOARD MEMBER JONES: So that would --

17 BOARD MEMBER PAPARIAN: But you wouldn't be
18 limited to the stakeholders, you could give a grant to
19 somebody else as well.

20 BOARD MEMBER JONES: Okay. So all we're saying
21 is we're going to keep this language we're just going to
22 say we're not limiting it to that, we're going to look
23 for more energy, more technology, we're going to research
24 more technology options, right?

25 BOARD MEMBER PAPARIAN: We're going to be

1 flexible enough that we could do that if it was
2 promising.

3 BOARD MEMBER JONES: Okay. Madam Chair.

4 BOARD CHAIR MOULTON-PATTERSON: Yes, Mr. Jones.

5 BOARD MEMBER JONES: I think that qualification
6 works for me.

7 BOARD CHAIR MOULTON-PATTERSON: Okay.

8 BOARD MEMBER JONES: So you guys, well I'll give
9 you a copy of this so if you'd sort of bear with us.

10 I'm going to move adoption of the plan and then
11 add, we're going to move to approve with the following
12 changes:

13 Number one, to incorporate Mr. Medina's proposed
14 language changes on page one, and modify by Mr. Eaton to
15 include rural and urban settings. And Mr. Medina is
16 going to provide that language and the members are going
17 to take a look at it.

18 Add Mr. Medina's suggested language on page 40
19 to include "used and waste tire haulers."

20 Number three, add more emphasis on page eight to
21 stress the importance of getting enforcement staff in
22 place as soon as possible. Additional staff are critical
23 to the success of the enforcement program, so that's got
24 to be beefed up to take care of those issues.

25 Number four would be modify the energy recovery

1 from tires on page 23 section as identified to read,

2 "Energy recovery from tires, this project
3 will be similar to past IWMB support for energy
4 recovery from tires, and may include the
5 following activities, but not limited to:
6 emission and ash testing, fuel feed system
7 development, fuel sizing analysis, capacity and
8 production optimization, research into promising
9 energy technologies. Other activities will be
10 accomplished through contracts and grants."

11 Read number five, rewrite objectives one and two
12 in the manifest and hauler element to identify short-term
13 and long term goals to shore up the timelines.

14 And it would be my suggestion that with the
15 money that's in there, because we have absolute consensus
16 on the manifest, that we just may have to do it in two
17 stages.

18 And Madam Chair, I think that's my motion.

19 BOARD CHAIR MOULTON-PATTERSON: Okay. Do we
20 have a second?

21 BOARD MEMBER MEDINA: Second.

22 BOARD CHAIR MOULTON-PATTERSON: We have a motion
23 by Mr. Jones, seconded by Mr. Medina to approve
24 resolution 2001-80 with the stated changes. Please call
25 the roll.

1 BOARD SECRETARY VILLA: Eaton.
2 BOARD MEMBER EATON: Aye.
3 BOARD SECRETARY VILLA: Jones.
4 BOARD MEMBER JONES: Aye.
5 BOARD SECRETARY VILLA: Medina.
6 BOARD MEMBER MEDINA: Aye.
7 BOARD SECRETARY VILLA: Paparian.
8 BOARD MEMBER PAPARIAN: Aye.
9 BOARD SECRETARY VILLA: Roberti.
10 BOARD MEMBER ROBERTI: Aye.
11 BOARD SECRETARY VILLA: Moulton-Patterson.
12 BOARD CHAIR MOULTON-PATTERSON: Aye.
13 BOARD MEMBER 9: Madam Chair.
14 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
15 BOARD MEMBER JONES: Yes, like I, when I was
16 saying that we were going to get language from Mr. Medina
17 and that, I'd like those changes as well as these changes
18 to get to all the Board member offices as soon as they're
19 done before they get sent.
20 MR. LEARY: Will do.
21 BOARD MEMBER JONES: Thank you.
22 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.
23 Leary, not through yet. Onto item number three.
24 MR. LEARY: Madam Chair, members of the Board,
25 Mark Leary again, Special Waste Division.

1 Agenda item three is consideration of approval
2 of selected costs incurred by the Department of Toxics
3 Substances Control in responding to the Westley tire fire
4 and subsequent tire fire remediation.

5 Agenda item three is a follow-on to agenda item
6 number fourteen from the December Board meeting whereby
7 the Board allocated, among other money and purposes,
8 558,000 for the reimbursement to the Department of Toxics
9 Substances Control and the Regional Water Quality Control
10 Board for costs incurred in responding to the Westley
11 tire fire cleanup.

12 As we received the summary of costs incurred
13 and/or obligated by the department, but have not from the
14 Regional Board, this item presents for your consideration
15 a summary of those costs from DTSC only.

16 This item is for consideration of costs only, it
17 is not an award or a reimbursement. Should the Board
18 approve costs today, the contract for reimbursement will
19 be prepared by staff for Board consideration next month.

20 Today's item is analogous to a Board approval of
21 a scope of work prior to the approval of an award or a
22 contract.

23 As described in the agenda item, DTSC's costs
24 can be broken down into two major areas: Those
25 associated with the emergency response, that is those

1 that occurred before the fire was extinguished.

2 And secondly, those costs that resulted from the
3 remediation efforts after the fire was extinguished.

4 This breakdown is provided in the table on page
5 3-3. These costs are further split within that table
6 between staff costs, including overhead and contract
7 costs, extra costs. The grand total of all costs is
8 \$1,461,139.72.

9 A subset of these costs is identified in the
10 table on page 3-2. These costs are those that have been
11 processed and paid to date by the department. This total
12 is \$330,000, \$330,942.69.

13 Although the bulk of the expenses transmitted to
14 the Board have not been processed for payment, it appears
15 likely that they will be paid before the end of the
16 year. At any rate, as they are entirely external
17 contractor costs and the monies are obligated in task
18 orders, these monies are not available to the department
19 for any other purpose.

20 Attachments one and two provide further detail
21 on these costs. It's hard not to notice the significant
22 overhead rate identified in the invoices provided by DTSC
23 and summarized in these attachments. Board staff
24 understand that these rates can be explained and, in
25 fact, are necessary, but have not pursued this

1 explanation feeling that it was more appropriate for the
2 department to explain the necessity of these rates if the
3 Board so wishes.

4 The Board has several options in considering
5 these expenses while reviewing -- while remaining within
6 the current fiscal year allocation of \$558,000.

7 The Board may approve costs in excess of
8 \$558,000 and instruct staff to defer those costs beyond
9 the 558 for consideration by the Board at a future tire
10 fund allocation.

11 Secondly, the Board may approve exactly the
12 \$558,000 and defer consideration of costs until some
13 later date.

14 Thirdly, the Board may approve some amount of
15 costs less than \$558,000.

16 Or the Board may not approve any costs.

17 Mr. Ed Lawry, the director of the Department of
18 Toxics Substances Control is present here today, and I
19 understand is available for questions.

20 That concludes my presentation.

21 BOARD CHAIR MOULTON-PATTERSON: Okay, thank
22 you. We have one public speaker besides Mr. Lawry, would
23 you like to hear from -- did you want to speak at this
24 point, Mr. Lawry, or would you rather wait until there's
25 questions?

1 MR. LAWRY: It's up to you.

2 BOARD CHAIR MOULTON-PATTERSON: Okay. We'll
3 take Elizabeth Mann.

4 MS. MANN: I apologize, I have no questions,
5 thank you.

6 BOARD CHAIR MOULTON-PATTERSON: I'm sorry, I
7 can't hear you.

8 MS. MANN: I have no questions.

9 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
10 you. Board members?

11 Mr. Lawry.

12 MR. LAWRY: Good afternoon and thank you for
13 inviting me to your meeting again. I must say I enjoyed
14 being in Glendale watching a very exciting inning between
15 Glendale Junior College and Citrus College over lunch.

16 Let me start by addressing the three hundred and
17 something thousand which was justified by our invoices as
18 having been paid about a month ago. That number,
19 according to my staff notes, is now \$807,759 which has
20 been billed and approved as of invoices from our
21 contractor work. That's about 68 percent of the cost
22 which had been contractually obligated.

23 BOARD MEMBER PAPARIAN: I couldn't understand
24 the number, what is the total again?

25 MR. LAWRY: All right. Let's see if I can work

1 this. The total cost which has been billed and approved
2 as invoices from contractors, \$807,759. And that's 68
3 percent of the costs which have been contractually
4 obligated.

5 I know there have been some questions about our
6 overhead rate which is in the neighborhood of 170
7 percent, more or less. Let me give you a little
8 background on that little historical reference as well.

9 We are obligated to seek and recover all of our
10 costs in actions like this where we either oversee the
11 cleanup of a hazardous waste site or contract for that
12 cleanup. I believe that we are, perhaps, the only entity
13 within the State of California which is required by law
14 to recover all of our costs in that manner.

15 And one way, and certainly not the only way to
16 figure out what all the costs are of the department, is
17 to bill absolutely everything directly.

18 Another way to do it, which is what we do, is to
19 take the direct labor costs of people who are working on
20 the project, and then allocate the rest of the costs of
21 the department to those labor costs.

22 That would mean, for example, that rent on the,
23 on our various offices, our regional office at Cording
24 Way, the Cal EPA building, the Glendale, we have a
25 Glendale office, would be part of indirect costs, but

1 they are costs which support the program. And there are,
2 I believe, three indirect rates which relate to our
3 various programs.

4 One is our seg mitigation program which is at
5 issue here; another is the hazardous waste management
6 program; and our science pollution technology program
7 also has an indirect rate.

8 Now in 1993, I believe, perhaps 1994, there were
9 questions raised about whether the indirect rate was
10 appropriate. And Governor Wilson at that time appointed
11 a group of people which included members of the
12 department, one or more accounting firms, and members of
13 the regulated community to examine those costs and
14 determine whether or not they were appropriate. They did
15 that and issued a report in 1995.

16 And one of the things which is required to be
17 done with those indirect costs now is for them to be
18 evaluated and set twice a year. And that's why you have
19 two indirect rates, I believe, in this case. Those
20 indirect rates are reviewed and approved by the
21 Department of Finance when we submit them to them.

22 For what it's worth, there is a general
23 consensus that were other agencies which were performing,
24 which do perform environmental oversight work, to put in
25 all of their indirect costs, you would see rates within

1 this magnitude as what we have here.

2 One other indirect rate which I can't help but
3 mention here is I'm part of the indirect overhead. So my
4 time coming down here ultimately goes in the indirect
5 overhead for each of the three programs.

6 And I think that's pretty much all I wanted to
7 say in introduction. And if anyone has questions I'd be
8 more than happy to answer them if I can.

9 BOARD CHAIR MOULTON-PATTERSON: Okay.
10 Questions, Board members?

11 BOARD MEMBER EATON: Mr. Lawry.

12 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton.

13 BOARD MEMBER EATON: Have you ever billed any
14 other agency?

15 MR. LAWRY: We have billed the, I believe,
16 Caltrans, Department of Education, Department of Water
17 Resources, Department of Corrections. We've had
18 interagency agreements with each of those, these agencies
19 which include our overhead rate.

20 BOARD MEMBER EATON: Correct. But at the
21 current time there is no interagency agreement nor has
22 there ever been an interagency agreement with the
23 California Waste Management Board on this particular
24 site?

25 MR. LAWRY: I believe you're correct.

1 BOARD MEMBER EATON: Okay. So we have no
2 contract at this time?

3 MR. LAWRY: We do not have an interagency
4 memorandum which has been signed at this time.

5 BOARD MEMBER EATON: Which, I'm unfamiliar with
6 that, so --

7 Mr. Leary, do you have a memorandum of
8 understanding?

9 MR. LAWRY: You do not.

10 MR. LEARY: We do not.

11 BOARD MEMBER EATON: So there is no document?

12 MR. LEARY: No.

13 BOARD MEMBER EATON: So that the monies that you
14 would be seeking here reimbursable, what I'm trying to
15 get at is under the contract that you have with Caltrans
16 and some of the other agencies, in there is the agreement
17 to pay the indirect overhead?

18 MR. LAWRY: I believe so.

19 BOARD MEMBER EATON: Right.

20 MR. LAWRY: Consist with our requirement --

21 BOARD MEMBER EATON: Right.

22 MR. LAWRY: -- that we get reimbursed for all of
23 our costs.

24 BOARD MEMBER EATON: See, as you well know, you
25 and I have gone round and round on this, and --

1 MR. LAWRY: Well I'm not sure it's a complete
2 circle yet, but there have been discussions, yes.

3 BOARD MEMBER EATON: What I can't quite
4 understand is that, which of these costs, had there have
5 been no tire fund and had there have been no legislation
6 of 876, under what statute could you have sought remedy
7 from this Board for those funds?

8 Because my understanding is -- which of these
9 costs were in your ordinary course and scope of your
10 agency's mission, and which of these costs were outside
11 of that?

12 And that's what I'm trying to determine here in
13 my own mind because that is critical. It is critical
14 because you are funded, as we are funded, as every other
15 state agency or governmental agency is funded based upon
16 our own mission statements, our own responsibility to
17 duties, so on and so forth.

18 And what I've had a hard time finding is what
19 would you have done in the ordinary course and scope of
20 your activities at the Westley site that were over and
21 above your regular duties and obligations under the
22 statutes of the State of California?

23 MR. LAWRY: Well it's difficult to answer,
24 that's obviously a hypothetical question, but let me try
25 to get it in this way.

1 I think that everything we did there is within
2 our statutory obligation and authority. Where it gets
3 tricky, I think, is we were indeed asked by the secretary
4 and by your department of -- or Board, excuse me, to be a
5 part of a multimedia effort to address this fire.

6 So the answer is nothing, in terms of would we
7 have done something, there's nothing outside of what we
8 are required and obligated to do.

9 On the other hand, we did it in cooperation with
10 and at the request of, among others, your Board.

11 BOARD MEMBER ROBERTI: Madam Chair.

12 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti.

13 BOARD MEMBER ROBERTI: I have a question.
14 Didn't we vote on this two months ago, and aren't we just
15 having action pending invoices? And what I'm tending to
16 hear now is a whole repeat of the agenda item. If we do
17 this we're going to be here until Sunday.

18 BOARD MEMBER EATON: With all due respect,
19 Senator --

20 BOARD MEMBER ROBERTI: And I mean it
21 respectfully but I -- okay, now with all due respect,
22 what were you going to say?

23 BOARD MEMBER EATON: What the issue is is that
24 if you, and I've got the transcript right here if you'd
25 like for me to read it.

1 BOARD MEMBER ROBERTI: Yeah, sure.

2 BOARD MEMBER EATON: The actual issue is whether
3 or not the costs were reimbursable under Senate Bill
4 876. That was the issue to be determined legally. And
5 we determined that it was not. That was what was
6 supposed to be brought forward.

7 MR. LAWRY: I may have been at a different
8 meeting.

9 BOARD MEMBER EATON: And if that were to be the
10 case, according to the transcript we were supposed to
11 have that material in hand as Board members ten days
12 before the Board meeting, neither of which occurred.
13 That was the motion.

14 BOARD MEMBER ROBERTI: I thought that was on
15 what was left over on the old money. The figure we had
16 arrived at, splitting that in some way, was \$558,000, and
17 we were waiting on invoices to make sure that the
18 invoices were consistent with what our obligations,
19 rights, and responsibilities are.

20 BOARD MEMBER EATON: So are you agreeing that
21 the Senate Bill 876 monies are not available for
22 reimbursement to the Department of Toxics?

23 BOARD MEMBER ROBERTI: Are you asking me the
24 question?

25 BOARD MEMBER EATON: Yeah, because if that's the

1 case then they can't --

2 BOARD MEMBER ROBERTI: No, I'm not agreeing to
3 that, but I am saying that that is, that is something
4 that can be pending while we discuss, while we take
5 action on the \$558,000 that was the old money.

6 BOARD MEMBER EATON: Correct. And you know I
7 never challenge the fact of the old money, the 558, that
8 any monies had to come from that.

9 But Mr. Leary talked, in his opening statement,
10 about the fact, whether or not the Board wanted to then
11 put the remainder of the monies that were billed or
12 invoiced here for future consideration under SB 876.
13 That brings 876 into play.

14 And I'm saying that 876, SB 876 monies are not
15 available now or in the future for activities that took
16 place prior to the enactment of SB 876. And that is
17 correct, and that is what I understand to be the legal
18 opinion.

19 Having said that then, you're right, we have
20 558,000 available, and out of that we have to look at
21 what expenses the Department of Toxics has presented to
22 us, and whether or not in those costs there are any that
23 we disagree with, question, want to put to the side, go
24 forward with.

25 BOARD MEMBER ROBERTI: And the number of

1 expenses that you have come up, I believe, are somewhere
2 in the vicinity of \$800,000?

3 MR. LAWRY: We have \$800,000 in invoiced
4 contracts which have been approved. We have encumbered,
5 to use a word in a, a technical word in a somewhat
6 non-technical sense, about \$1.4 million. The 800,000 you
7 talked about does not include any direct employee labor
8 or overhead.

9 BOARD MEMBER ROBERTI: Madam Chair, if it is in
10 order, I would like to formalize our vote of two months
11 ago that we make a motion, that I make a motion that we
12 make a payment of \$558,000, and appropriation of the
13 money which I feel we have already encumbered. And then
14 we will discuss the rest of the money and what fund it
15 will come from on another agenda item, later on today,
16 whatever.

17 But I think the issue before us right now is the
18 558, pursuant to action the Board has already taken.
19 This is just a formal appropriation of monies that we
20 have already encumbered, and to unencumber them would
21 take another vote of the Board.

22 BOARD MEMBER EATON: When did we take the vote,
23 Senator Roberti?

24 BOARD MEMBER ROBERTI: I think it was four to
25 two in December.

1 BOARD MEMBER EATON: Well that, that vote right
2 here didn't have anything to do with what you're speaking
3 of with regard to the costs associated here. And we can
4 have a discussion of what the costs are, can we not?

5 BOARD CHAIR MOULTON-PATTERSON: Do we have
6 any --

7 BOARD MEMBER EATON: Within the 558,000?

8 BOARD CHAIR MOULTON-PATTERSON: Do we have any
9 comment from staff?

10 BOARD MEMBER EATON: It may be your position
11 that each and every invoice submitted by the Department
12 of Toxics is okay.

13 BOARD MEMBER ROBERTI: Well I don't know.

14 BOARD MEMBER EATON: That's your position and I
15 understand that position. But I'm just trying to
16 determine what the costs are based upon the fact that
17 we've gotten a summary of the costs, and per your own
18 agreement in the motion, we were supposed to get invoices
19 and an analysis of the Department of Toxics costs ten
20 days before this Board meeting.

21 MR. LAWRY: Right. You got 'em from us,
22 invoices and analysis from us, and we've talked at length
23 with your staff. I don't know what your relationship is
24 with the staff, but we got it all over there.

25 BOARD MEMBER EATON: I'm not criticizing you,

1 Mr. Lawry.

2 BOARD CHAIR MOULTON-PATTERSON: One moment, Mr.
3 Paparian. Did we get the invoices? It was my
4 understanding that we did.

5 Mr. Paparian.

6 BOARD MEMBER PAPARIAN: I think a lot of us have
7 different recollections of what was or wasn't supposed to
8 happen. I wonder if we could hear from our staff, in
9 particular our legal staff, what is is that they think is
10 before us, and what's properly before us to decide.

11 CHIEF LEGAL COUNSEL TOBIAS: I agree that the
12 agenda item correctly states on previous Board action
13 that the Board did adopt this resolution which basically
14 said that the Board was allocating, that the Board was
15 allocating the so-called old money, or money prior to
16 876; that it was coming back to this meeting; and that
17 the Board was going to look at the costs that were in the
18 invoices and decide what they were going to pay.

19 BOARD MEMBER PAPARIAN: I thought we also had a
20 discussion about how some of the, there are, there are
21 some pre-876 monies, pre-876 obligations that are out
22 there that could be spent with 876 money, in particular
23 the Sukut contract in the order of \$2 million which was a
24 several year contract and goes well into the period of
25 876.

1 BOARD MEMBER EATON: Mr. Paparian, I have the
2 transcript here. There's no recollection of that in the
3 transcript.

4 BOARD CHAIR MOULTON-PATTERSON: You know, I
5 would suggest in the future that when we have a meeting
6 that, you know, we're going back, that we all could have
7 that part of the transcript. Because it's really unfair
8 that we don't, we can't all see it, because we're seeming
9 to have a little problem.

10 BOARD MEMBER EATON: I just went and copied it
11 out of the morgue which everyone has the opportunity to
12 do.

13 BOARD CHAIR MOULTON-PATTERSON: Okay. Do you
14 guys all have it down there?

15 CHIEF DEPUTY DIRECTOR FISH: We don't. Would
16 you like us to address the issue of the old money versus
17 the new?

18 BOARD CHAIR MOULTON-PATTERSON: Yes, and I
19 thought that was decided at the December meeting.

20 BOARD MEMBER EATON: And I have granted that
21 that issue has been decided that the only monies that are
22 available are the 558,000.

23 BOARD CHAIR MOULTON-PATTERSON: Okay.

24 BOARD MEMBER EATON: And that any other monies
25 that can be expended from SB 876 can only occur from this

1 day forward for work from this day forward. And Mr.

2 Paparian is disputing that.

3 BOARD MEMBER ROBERTI: And I have a motion on
4 the floor.

5 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti,
6 would you restate your motion?

7 BOARD MEMBER PAPARIAN: I'll second it.

8 BOARD MEMBER ROBERTI: That the \$558,000 from
9 the pre-876 old money, is that correct, be appropriated
10 and transferred to Department of Toxics.

11 BOARD MEMBER PAPARIAN: Second.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
13 Paparian. We have a motion by Senator Roberti --

14 BOARD MEMBER EATON: And I'll have a substitute
15 motion here, but I would ask the courtesy of Senator
16 Roberti and Mr. Paparian, that you at least grant the
17 courtesy to another Board member. I've never once ever
18 cut either of you off, when I was chair or as a Board
19 member, and I don't appreciate what you're trying to do
20 right now.

21 These are issues here that I think are very,
22 very long range. And perhaps if you either are unwilling
23 or unable to see what's going to take place in the future
24 with regard to other state agencies or other local
25 agencies coming in and trying to reach the cash register

1 for these monies, there's a public policy issue behind
2 this, not just a political decision. And I would ask
3 that you consider that.

4 I understand what the votes are and where
5 they're going to line up, but I would at least think that
6 you would have the courtesy to do that.

7 BOARD CHAIR MOULTON-PATTERSON: You had a
8 substitute motion?

9 BOARD MEMBER MEDINA: Madam Chair, before you
10 get to the substitute motion, I've been waiting to get a
11 question asked, and I haven't had a chance yet to ask my
12 question related to the \$558,000.

13 And as it states on page 3-1 of the agenda, it
14 states that the 558,000 to DTSC and the Regional Water
15 Quality Control Board.

16 And my question is, what are the anticipated
17 costs that will be allocated to the Regional Water
18 Quality Control Board? And are they going to come back
19 and make a claim on the same \$558,000?

20 MR. LEARY: The Board, the Board, I think we
21 represented back on agenda item fourteen in December that
22 there were about \$161,000 to the Regional Water Quality
23 Control Board.

24 We made the Board aware that DTSC had submitted,
25 the Regional Board that is, that DTSC had submitted their

1 invoices, and we welcome and encourage their submittal of
2 invoices for consideration, for the ultimate Board's
3 consideration. We have yet to receive those invoices.
4 So we moved this item forward for DTSC's costs alone.

5 BOARD MEMBER MEDINA: So according to resolution
6 number 2000-487, 558,000 was approved for allocation to
7 DTSC and the Regional Water Quality Board. So if DTSC is
8 awarded the 558,000, what happens again when the Regional
9 Water Quality Control Board comes and makes a claim on
10 that same money?

11 MR. LEARY: Well there wouldn't be any remaining
12 expenditure authority this fiscal year for the payment of
13 those costs. There's a dispute obviously about whether
14 those costs could be considered in future fiscal years.
15 There's a discussion ongoing among you all right now
16 about whether those costs could be considered in future
17 fiscal years.

18 BOARD MEMBER MEDINA: So as of this point the
19 Regional Water Quality Control Board has not made any
20 demands --

21 MR. LEARY: No, they haven't.

22 BOARD MEMBER MEDINA: -- on that five hundred --

23 MR. LEARY: No, they haven't.

24 BOARD MEMBER MEDINA: -- 58,000 dollars?

25 MR. LEARY: No, they have not.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.

2 Leary. I want to give Mr. Eaton the courtesy of --

3 BOARD MEMBER EATON: Sure. Mr. Jones wants to

4 talk as well.

5 BOARD CHAIR MOULTON-PATTERSON: Thank you. Mr.

6 Jones.

7 BOARD MEMBER JONES: Thank you, members. I have

8 a couple of questions here, and I appreciate you coming

9 up and/or down, wherever, I don't know, it's all of 3:00
10 o'clock.

11 We have, there's two things from where I'm
12 coming from. One is that in -- and I don't think it's
13 semantics, I think it's important that we get this line
14 drawn in the sand to make sure it's right. I gave my
15 word to Ed Lawry when we were doing 876 that as long as
16 we had contracts we had no problem, and I am going to
17 stay with that forever.

18 The other issue is we have an attorney here from
19 CMS who is part of litigation that we have, or pending
20 litigation that we have at the Westley tire fire site.
21 And I've always looked at those settlement discussions
22 with a whole array, or a whole range of responsible
23 parties as being part of what is going to help fund our
24 reimbursement to different agencies and to ourselves.

25 And I think that clearly has to be part of our

1 discussions, because I in no way want this discussion,
2 which may be between two different agencies within Cal
3 EPA's family, because we do our business in the public
4 setting, we have very strong feelings and need to talk
5 about issues to make sure that they're straight. But,
6 and while I think there are good points on all parts of
7 this issue, I think it's critical to do a couple of
8 things.

9 And one is to make a determination that, in
10 fact, there were two processes, as DTSC has set out.

11 One was the invoices that were for the actual
12 response when the thing was on fire.

13 And the second was the remediation and cleanup
14 or stabilization of that site, which in my view is part
15 of closure and post closure.

16 And that being said, I think we have another
17 pool of money that not only do we have our existing tire
18 money that there was evidently an allocation of 558,000
19 not, I mean there was an allocation, there was a vote,
20 the vote passed four to two. There is yet to be a
21 blessed SB 876 five-year plan, so we're in limbo there.

22 But we have a third pool of money which is the
23 settlements for the closure, post closure of the Westley
24 tire fire site.

25 And I think that, in my view a lot of these

1 expenses that were incurred are part of closure and post
2 closure. And so I think while we have the discussion of
3 what's acceptable and what isn't, I'd like to have the
4 discussion about, there are parts of this discussion that
5 I think need to happen, and there are other parts that
6 could be done in a lot of places.

7 I thought that this agenda item was to see if,
8 in fact, these bills, that we accepted these bills. That
9 we said, DTSC is our sister agency, they're going to bill
10 us. They're not asking us to write them a check today,
11 are they? Somebody?

12 INTERIM EXECUTIVE DIRECTOR BRUCE: I feel if you
13 looked at the agenda item I think it's the anticipation
14 at DTSC that they will be, that 558,000, whatever you all
15 decide and what part of those bills they will be.

16 BOARD MEMBER JONES: Right, the 558 I think has
17 already been voted.

18 INTERIM EXECUTIVE DIRECTOR BRUCE: And I think
19 what we're looking for from the Board is direction on how
20 to craft the contract for the money that was approved on
21 the four to two vote.

22 BOARD MEMBER JONES: And one of the questions,
23 the contact on the four to two vote? The four to two
24 vote was for \$558,000.

25 What I am adding to this discussion, okay, is

1 the fact that there is closure, post closure money in
2 remediation.

3 I'm not going to list it, I'm not going to talk
4 about what it is, everybody knows that there are parties,
5 it's a confidential negotiation right now. But there are
6 dollars available.

7 I want to know if this item, in saying yes, DTSC
8 spent a million, whatever they, whatever they spent, a
9 million something --

10 MR. LAWRY: A million four.

11 BOARD MEMBER ROBERTI: Madam Chair, could I ask
12 the question?

13 BOARD MEMBER JONES: -- that we are
14 acknowledging that that million four is a legitimate
15 expense, but we're not saying that we're going to write
16 you a check tomorrow, and let us work through, if it's
17 acceptable to DTSC and to the other Board members, work
18 through the issue of what portion of this is appropriate
19 to come out of the final settlements for the site, which
20 all gets, all that money gets directed to us in the
21 closure, post closure, and needs to, into the post
22 closure fund, and that money then gets directed by us to
23 closure, post closure activities. These are clearly
24 closure, post closure activities as part of the
25 remediation.

1 So it's a piece of the, of the discussion that I
2 don't think we ever had that needs to be included and may
3 take some of the, may make it a little easier to deal
4 with to get everybody.

5 Because I mean we have a portion of money that's
6 going to come out of this remedial -- these settlements
7 that has to reimburse our programs, as does the Water
8 Board, as does the Air Board, as does Toxic.

9 But pure and simple, I think that that is a way
10 to do this, deal with the 558 any way that anybody wants
11 to, write 'em a check, I don't care.

12 But understand that if we accept this bill and
13 this relationship, we can fund it from other sources.
14 They may not get it right away. They're going to have to
15 wait like we're going to have to wait.

16 But in the future, when SB 876 gets approved by
17 the legislature and everybody, I gave my word, as did
18 others, that we would contract with DTSC, that we would,
19 as the work needs to be done we would get a scope of
20 work, we would determine what was there, get some kind of
21 an estimate, boom, done. I'm going to stand by my word,
22 pure and simple; but those were the discussions.

23 Is that, I mean that's what I told Ed the
24 morning that the bill was going to the, I mean not all
25 this other stuff, but the morning the bill was going to

1 the floor that, in fact, that I gave him my word that we
2 would enter into contracts. Is that fair to say?

3 MR. LAWRY: My recollection is a much shorter
4 conversation, but it is fair to say what you're saying.

5 BOARD MEMBER JONES: It was a short
6 conversation, actually broke out of a staff meeting.

7 MR. LAWRY: That's what I recall. With the
8 Chair's permission I think there probably are two issues;
9 one is 500 some thousand which we've authorized you, and
10 have we given you enough justification for you to write a
11 check tomorrow or whatever timeframe you're talking
12 about?

13 And the remainder is a contract for, pursuant to
14 876 to, for other costs which aren't part of the 558 as
15 you talked about in December.

16 And I think Mr. Eaton and I may have a
17 disagreement as to whether past work could be authorized
18 under 876 pursuant to the contract which is executed
19 tomorrow or not, but I don't know that that's before you
20 today, and I don't know that we have a legal opinion as
21 to how that works.

22 BOARD MEMBER EATON: And I agree one hundred
23 percent with you.

24 BOARD MEMBER ROBERTI: Madam Chair.

25 BOARD MEMBER EATON: What I wanted to be able to

1 do is, I find it very hard that if you have costs before
2 you -- this is not for you, Mr. Lawry.

3 BOARD MEMBER ROBERTI: Madam Chair.

4 BOARD MEMBER EATON: Mr. Roberti, please.

5 BOARD MEMBER ROBERTI: Well it appears that
6 nobody can hear on the right side here, and I have a
7 motion on the floor.

8 BOARD CHAIR MOULTON-PATTERSON: That's right.

9 BOARD MEMBER ROBERTI: And this is being
10 interminably discussed, no intent to cut everybody off,
11 but everyone says the \$558,000 is agreed to, except
12 unfortunately there is no language in our resolution. The
13 resolution is written as if we didn't do anything in
14 December, for reasons I cannot figure out, and it appears
15 that the people who talk the most, with all due respect,
16 are the ones who get the staff's attention.

17 It's unconscionable that a four vote majority of
18 the Board has absolutely no action from the staff except
19 for some blank piece of paper. I would like to know why
20 that is.

21 I have a motion on the floor, we should have a
22 vote.

23 BOARD CHAIR MOULTON-PATTERSON: Okay.

24 BOARD MEMBER ROBERTI: If people don't want to
25 vote for it, that's fine, I won't be upset. I do get

1 upset when a four to two vote of the court, of the, of
2 the, whatever we are, is treated, is treated as a
3 non-item. When everybody else up on the Board agrees
4 that we did make an appropriation. We did.

5 The resolution is pathetic, and it will not
6 match whatever our action was.

7 BOARD MEMBER EATON: For the first time --

8 BOARD MEMBER ROBERTI: So I'm not trying to cut
9 Danny off, Mr. Eaton, I mean he was a great chair, an
10 intelligent man, and feels these issues very strongly.

11 I feel very strongly the issue of process. And
12 we had process in December, it is not being met. The
13 staff resolution is blank, and even though everyone on
14 the Board says we voted on it, we're going to talk and
15 talk and talk.

16 The other money that we're discussing, yes, that
17 is an open question, how we're going to pay it, that's an
18 open question, I agree.

19 But we do need a formal motion on the \$558,000,
20 and there is a motion on the floor.

21 BOARD MEMBER EATON: And I think --

22 BOARD MEMBER ROBERTI: Now Danny, you can talk.

23 BOARD MEMBER EATON: And I think -- well thank
24 you very much, that's very kind. And I don't mean that
25 facetiously.

1 I think we're both in agreement and we're both
2 seeing it from different viewpoints here. My point was
3 basically that we ought to have an analysis of what those
4 invoices were. So I share your view that I have nothing
5 before me, analysis or other before me that gives me what
6 those costs are.

7 So while you're willing to vote for the 558 on
8 blind faith or some other good hope, I'm sitting there
9 and saying I don't understand, there's a NorCal contract
10 within there. We had a contract with NorCal. Is that a
11 different contract than what NorCal did for us, or is it
12 the same contract? There's no analysis of those costs.

13 I agree that we should have been presented with
14 that today and made a determination of what that 558
15 would approve. So from that standpoint I think we're in
16 agreement. The fact is that there's a lack of
17 information.

18 So if you want to, you know, go ahead, and which
19 invoices are you going to pick to make up the 558? That's
20 what they're asking us to do now. And before you made
21 your motion I was trying to get there.

22 BOARD CHAIR MOULTON-PATTERSON: We have a motion
23 by Senator Roberti, seconded by Mr. Paparian.

24 Please call the roll.

25 BOARD MEMBER MEDINA: Could we have a

1 restatement of the motion, please, just to make sure that
2 we're clear on what it is that we're voting for?

3 BOARD MEMBER ROBERTI: We said that we will --
4 the resolution is useless anyway, so we don't have a
5 resolution number to deal with.

6 That we appropriate \$558,000 to pay the
7 Department of Toxics, to pay for a, to pay for invoices
8 rendered for work which the Department of Toxics
9 performed on the Westley tire fire site.

10 That -- and I'm adding this because I believe
11 that it's necessary -- that staff prepare the necessary
12 contractual language for the pre-876 monies that we are
13 appropriating;

14 And that this motion is pursuant to the
15 discussion in December, the vote in December in which we
16 did receive information which this Board takes
17 objectively to indicate that those monies were expended,
18 absent the specific receipts which I grant we do not
19 have. But we do know there's an expenditure of \$800,000,
20 I think it's reasonable to appropriate \$558,000 of that
21 money.

22 I do agree with Mr. Eaton, and on this we share
23 agreement, that I do not think the preparatory work was
24 at all adequate, this resolution is absolutely useless,
25 it is blank, and that's not why we have staff to come up

1 with blanks.

2 BOARD CHAIR MOULTON-PATTERSON: I think we all
3 agree that we could have had it outlined a little
4 better. Thank you.

5 Do you have the motion? Is everybody clear on
6 the motion?

7 Please call the roll.

8 BOARD MEMBER JONES: Madam Chair.

9 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

10 BOARD MEMBER JONES: Just real quickly. On the
11 bottom of this resolution it says to fill in the task
12 that you're approving in the 558 grand or whatever. I
13 would just like you to, if you would amend your motion to
14 include the emergency response costs in that part of the
15 motion, because that is not closure or post closure
16 expense, it is in response to the fire. So you need to
17 do that because if we get it --

18 BOARD MEMBER ROBERTI: I think that's a point
19 well taken, and I will incorporate that.

20 Mr. Lawry, do you have a problem with that?

21 MR. LAWRY: Well the problem I have is that a
22 lot of our contractor costs which we've been billed and
23 approved took place long after the fire started, and if
24 Member Jones is speaking to everything we spent before
25 the last ember was out, I'm not sure how that breaks

1 down. What I do know --

2 BOARD MEMBER ROBERTI: I see your point. I
3 think Mr. Lawry is saying, I think you're defining
4 emergency but that may be very difficult to do.

5 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones wants
6 to clarify.

7 BOARD MEMBER JONES: What I'm trying to say here
8 is we have two attachments, we don't have your bills, I
9 mean I don't have 'em, they have 'em. We have two
10 attachments. One of the attachments is emergency
11 response for like 73 grand. That is not part of closure,
12 post closure.

13 MR. LAWRY: Probably not.

14 BOARD MEMBER JONES: The rest of it is
15 expenditure that is remedial. Remedial is part of the
16 closure, post closure.

17 So I don't care what portion of remedial gets
18 added to that total up to 538 or whatever, but it must
19 include the emergency response because that's
20 appropriate.

21 MR. LAWRY: Capiche, I believe, sir.

22 BOARD MEMBER JONES: Beautiful.

23 BOARD CHAIR MOULTON-PATTERSON: And you agree,
24 Mr. Senator?

25 BOARD MEMBER ROBERTI: Yes.

1 BOARD CHAIR MOULTON-PATTERSON: Please call the
2 roll.

3 BOARD SECRETARY VILLA: Eaton.

4 BOARD MEMBER EATON: No.

5 BOARD SECRETARY VILLA: Jones.

6 BOARD MEMBER JONES: Aye.

7 BOARD SECRETARY VILLA: Medina.

8 BOARD MEMBER MEDINA: Aye.

9 BOARD SECRETARY VILLA: Paparian.

10 BOARD MEMBER PAPARIAN: Aye.

11 BOARD SECRETARY VILLA: Roberti.

12 BOARD MEMBER ROBERTI: Aye.

13 BOARD SECRETARY VILLA: Moulton-Patterson.

14 BOARD CHAIR MOULTON-PATTERSON: Aye. Anything
15 else you need from us?

16 INTERIM EXECUTIVE DIRECTOR BRUCE: Can I just
17 ask one question for clarification? We will be coming
18 back next month with the contract that clarifies what you
19 said. I would just also like to make sure that you have
20 all you need.

21 Attachment one and attachment two provides for
22 you a summary of the invoices that we were provided.
23 Where we had requests from Board offices for the actual
24 copies of the invoices, my understanding is those were
25 provided.

1 What more would you like as we come forward with
2 the contract?

3 BOARD MEMBER PAPARIAN: Madam Chair.

4 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

5 BOARD MEMBER PAPARIAN: I think one of the
6 questions out there is if we wanted to pay for these
7 costs, how do we make that happen? And I did bring up at
8 the prior meeting, and I think Mr. Eaton, you will agree,
9 of the Sukut contract, how much of that money is, is left
10 to be spent over the next couple of years, whether we
11 could go back and backfill with pre-876 money, and then
12 have some of that Sukut money paid for, as I believe,
13 would be appropriate with 876 money.

14 Anyway, the more urgent issue is if we wanted to
15 allocate more money to DTSC for their costs, how could we
16 make that happen?

17 INTERIM EXECUTIVE DIRECTOR BRUCE: I heard that
18 direction. I think the agenda item as we were addressing
19 it was addressing specifically the vote that was taken in
20 December on that 558,000. You're asking for a larger
21 piece that we can come back taking a look at.

22 Hearing what Mr. Jones has said also about some
23 settlement money that would come out of post closure
24 could happen, and we'll have to bring that forward too.

25 But I want to make sure you get enough of the

1 material that we have available, and obviously this
2 wasn't enough.

3 BOARD MEMBER EATON: I would like an analysis of
4 what invoices you're going to pay under the 558,000,
5 because there's obviously, according to Mr. Lawry what
6 has been submitted and what has been paid, that not all
7 of those invoices can be paid with \$558,000 because there
8 is still other invoices over and above that. So which
9 ones are going to be paid with the 558? Right?

10 INTERIM EXECUTIVE DIRECTOR BRUCE: Right.

11 BOARD MEMBER EATON: Which ones are for
12 emergency, which ones for non-emergency? Analysis of the
13 invoices. Which of those contracts with NorCal do we pay
14 for, did they pay for? Are we being double billed?

15 INTERIM EXECUTIVE DIRECTOR BRUCE: Thank you.

16 BOARD MEMBER EATON: That's just a start. And
17 then what separation of those legal costs? I mean in the
18 invoice, it is my understanding, is there are costs for
19 legal action. Is that correct, Mr. Lawry?

20 MR. LAWRY: Lawyers bill time for these costs.

21 BOARD MEMBER EATON: I'm not sure we would be
22 paying their or co-defendants or co-plaintiffs or cross-
23 plaintiffs or cross-defendants costs, as the case may be,
24 that those should be segregated and then the Board should
25 look at those. That's all I was trying to get at.

1 That's the analysis that would have been
2 required for today to avoid a lot of what took place. I
3 do not understand why we're paying for another agency's
4 legal bills.

5 MR. LAWRY: Well we'd like to address you with
6 the information.

7 BOARD CHAIR MOULTON-PATTERSON: Yes, Mr. Lawry.

8 MR. LAWRY: The cost of the work that we do and
9 the cost to get the money is one of the costs that we are
10 obligated by law to collect. As I believe here, I think,
11 I would like to be able to report to my department and
12 give them some direction.

13 It's my understanding we're going to be talking
14 about two contracts; one is a contract for \$558,000 which
15 you just approved, and that seems to be or could be done
16 by saying Integrated Waste Management Board will pay for
17 the following invoices A, B, C through X, whatever it is.

18 And the second contract, which you have not
19 approved, would be for other expenses which we have
20 incurred, and could include what the Board wanted to do
21 with SB 876 or any other funds.

22 And you have to approve, you haven't approved
23 that, but I would like to know whether it's a sense of
24 the Board to talk to your legal staff to put the contract
25 together as well.

1 BOARD MEMBER EATON: Well I would object to a
2 second contract since we haven't had any discussion or
3 legal opinions with regard to SB 876, we haven't even
4 gotten our five year plan approved. And if there are any
5 costs that come out of SB 876, as their statutory
6 language states, it must be for future work, and it must
7 have a scope of work and be identified as to what that
8 work happens to be.

9 And I don't have a problem going into those
10 discussions, but I think they're two separate contracts,
11 and I don't think we're in a position as the Board to do
12 that right at the present time.

13 Once the budget subcommittee hearings are over
14 and we kind of go through that, and you remember you were
15 in the room when those were discussed with all the
16 agencies as to the reason for the scope of work so that
17 everyone could account for the dollars. It wasn't to
18 point out to Toxics in particular that those funds are to
19 be expended for cross media activities, it was so
20 everybody would be accounted for and everyone knew what
21 those charges would be from all of the other agencies.

22 And I don't think we're anywhere near that. We
23 barely got through that today.

24 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

25 BOARD MEMBER JONES: Just a quick question or

1 maybe a little direction. There are maybe three issues,
2 okay.

3 One is the 558.

4 One would be, as I see it, whatever contract
5 work we're going to do on, through SB 876 on the future
6 work at the site.

7 MR. LAWRY: Right.

8 BOARD MEMBER JONES: And I think maybe a
9 contract isn't the right word, but maybe it's an
10 acknowledgment of these bills.

11 And then the discussion about the money that the
12 Waste Board put in as a percentage of the total to do
13 Westley. The dollars that you have coming as the
14 percentage of what it took to deal with Westley and the
15 Water Board. Because as part of the discussions around
16 settlements and lawsuits at that site, there is going to
17 be a pool of money that needs to be dealt with, and it's
18 very serious money.

19 It's very clear that state agencies had to hire
20 contractors and deal with the biggest environmental, one
21 of the biggest environmental disasters to hit the west
22 coast. That may not be a contract, but it may be what we
23 need to acknowledge that these dollars are justified and
24 due. It just may be, the source of the payment may come
25 from those settlements. And I don't know if that works,

1 but --

2 MR. LAWRY: I don't know whether it works
3 either.

4 BOARD MEMBER JONES: But it gets you your
5 acknowledgment, and it gets us into the appropriate
6 discussions with those responsible parties.

7 MR. LAWRY: Right.

8 BOARD MEMBER JONES: So --

9 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti.

10 BOARD MEMBER ROBERTI: I think Mr. Jones is
11 starting to get to the point of the confusion and I
12 appreciate it very much.

13 Just to rehash what I thought took place in
14 December is we had X number of dollars that Toxics wanted
15 to be, wish list, to be reimbursed for. We had available
16 to us X number of dollars. We arrived at \$558,000 after
17 massaging our own figures of other things we had to do,
18 and we came up with \$558,000.

19 Our vote in December was a percentage, 558,000,
20 of the then unspecified but known accumulated invoices of
21 the Department of Toxics. We have now appropriated that
22 money based on further discussion.

23 We do not have those invoices, that vote was not
24 invoice specific simply because the original vote was
25 never invoice specific. We were paying for a percentage

1 of what we could pay for based on the amount of money
2 that we had in pre-876 monies. That can't be invoice
3 specific.

4 The contract, as I understand it, and I think
5 that is similar to what Mr. Jones has been specifying, is
6 that we will come up with monies that are probably a
7 percentage of the invoices or may be invoice specific,
8 but all within the purview of what our original vote was,
9 and that is a percentage of all the obligations that
10 Toxics undertook in order to clean up Westley.

11 And so we do need some contractual language for
12 next month, but I do feel that the appropriation has been
13 made on a percentage basis simply based on the amount of
14 money we have, the amount of money that we suspect they
15 have.

16 BOARD CHAIR MOULTON-PATTERSON: Thank you,
17 Senator Roberti.

18 Do we have enough for staff?

19 INTERIM EXECUTIVE DIRECTOR BRUCE: We do. Thank
20 you. All right.

21 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
22 Lawry, for coming down.

23 MR. LAWRY: Thank you.

24 BOARD CHAIR MOULTON-PATTERSON: Ms. Wohl,
25 Patty, Waste Prevention number three, number four.

1 MS. WOHL: Actually number five.

2 BOARD CHAIR MOULTON-PATTERSON: Sorry, item
3 five.

4 MS. WOHL: Item five is consideration of
5 approval of a contractor for the material emissions
6 testing of portable classrooms and state construction
7 contract.

8 Bill Orr will briefly present this item.

9 BOARD CHAIR MOULTON-PATTERSON: Thank you.

10 MR. ORR: Good afternoon, Madam Chair and Board
11 members. For the record, my name is Bill Orr with the
12 Recycling Technologies Branch.

13 This agenda item seeks the Board's approval to
14 contract with the Public Health Institute for up to
15 \$100,000 to perform tasks outlined in the Board agenda
16 item for a scope of work.

17 This contract is a combination of two contract
18 concepts that were approved by the Board at its February
19 20th through 22nd meeting.

20 Staff recommends that the Board approve option
21 one which approves Public Health Institute as the
22 contractor, and adopt resolution 2000-66.

23 I would be happy to answer any questions.

24 BOARD CHAIR MOULTON-PATTERSON: I'm not sure if
25 you'll know this or not, Mr. Orr. Somewhere I heard

1 that, it was a large percentage of classrooms were
2 portables. Do you have, is it a third or a fourth? I
3 mean I think this is so important.

4 MR. ORR: Yes, Madam Chair. Approximately
5 one-third of the classrooms are portable classrooms, and
6 I've heard as much as 80 percent of the classrooms that
7 are being constructed currently are also portable
8 classrooms.

9 BOARD CHAIR MOULTON-PATTERSON: And this was
10 supported by the Air Resources Board? The sent us a
11 letter?

12 MR. ORR: Yes, we received letters of support,
13 both from the Air Resources Board in conjunction with
14 their portable classroom study, and also with the
15 Department of Health Services who will be acting as
16 principal investigators to the study.

17 BOARD CHAIR MOULTON-PATTERSON: Okay.

18 BOARD MEMBER MEDINA: Mr. Medina.

19 BOARD MEMBER MEDINA: Madam Chair, if there are
20 no questions or issues related to this item I'd like to
21 move resolution 2001-66 approval of contractor for the
22 material emissions testing of portable classrooms and
23 state construction contract fiscal year 2000-2001,
24 contract concept number 54 and BCP finance letter number
25 three.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you. I'll
2 second that. And I see no other comments, when you call
3 the roll could you leave it open for this vote?

4 Please call the roll.

5 BOARD SECRETARY VILLA: Eaton.

6 BOARD MEMBER EATON: Aye.

7 BOARD SECRETARY VILLA: Jones.

8 (No Response.)

9 BOARD SECRETARY VILLA: Medina.

10 BOARD MEMBER MEDINA: Aye.

11 BOARD SECRETARY VILLA: Paparian.

12 (No Response.)

13 BOARD SECRETARY VILLA: Roberti.

14 BOARD MEMBER ROBERTI: Aye.

15 BOARD SECRETARY VILLA: Moulton-Patterson.

16 BOARD CHAIR MOULTON-PATTERSON: Aye. Thank you.

17 MS. WOHL: Number six. For fiscal year
18 2000-2001 the recycling market development revolving loan
19 program is budgeted to fund \$10 million in new loans.

20 The Board has previously approved nine loans
21 this fiscal year totalling \$5,968,500. Today the Board
22 will consider one loan to Summit Sales, Inc. in the
23 amount of \$400,000.

24 If this loan is approved, then there remains
25 \$3,631,500 in the subaccount for new loan applications.

1 Agenda item six is consideration of approval of
2 the recycling market development revolving loan program
3 application for Summit Sales, Inc. and Bob Ditlevsen will
4 present.

5 MR. DITLEVSEN: Madam Chair, Board members, good
6 afternoon. My name is Bob Ditlevsen. I'm a loan officer
7 with the RMDZ program. I'm basically here to present for
8 your consideration and approval of the recycling market
9 development revolving loan application for Summit Sales.

10 The approval is for a \$400,000 loan to Summit
11 Sales, Inc. The company is located in Gustine,
12 California in Merced County, Merced County zone.

13 Loan proceeds will be used for the following.

14 Purchases of commercial real estate in the
15 amount of \$200,000.

16 Purchases of equipment in the amount of
17 \$200,000.

18 Current diversion is a thousand tons per year.
19 Projected increase with the use of these funds is 5,000,
20 for a total of, an annual diversion total of 6,000.

21 Currently the number of is twenty. Once again
22 with the use of these funds, the projected increase in
23 jobs will be twelve for a total of 32.

24 I'd like to recommend at this time that the
25 Board approve the loan contained in resolution number

1 2001-67 to Summit Sales, Incorporated in the amount of
2 400,000.

3 BOARD CHAIR MOULTON-PATTERSON: Thank you. Any
4 questions, Board members?

5 MR. DITLEVSEN: Thank you.

6 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

7 BOARD MEMBER MEDINA: Madam Chair, I'd like to
8 move resolution 2001-67, approval of the recycling market
9 development revolving loan program application for Summit
10 Sales, Inc. in the amount of 400,000.

11 At the same time I'd like to caution staff in
12 regard to making loans for real estate when funds are not
13 at a level to adequately meet loan requests.

14 BOARD CHAIR MOULTON-PATTERSON: Thank you. And
15 I'll second that motion.

16 We have a motion by Mr. Medina, seconded by
17 Moulton-Patterson to approve resolution 2001-67.

18 Please call the roll.

19 BOARD SECRETARY VILLA: Eaton.

20 BOARD MEMBER EATON: Aye.

21 BOARD SECRETARY VILLA: Jones.

22 BOARD MEMBER JONES: Aye.

23 BOARD SECRETARY VILLA: Medina.

24 BOARD MEMBER MEDINA: Aye.

25 BOARD SECRETARY VILLA: Paparian.

1 BOARD MEMBER PAPARIAN: Aye.
2 BOARD SECRETARY VILLA: Roberti.
3 BOARD MEMBER ROBERTI: Aye.
4 BOARD SECRETARY VILLA: Moulton-Patterson.
5 BOARD CHAIR MOULTON-PATTERSON: Aye.
6 And we held the vote open for number five if
7 you'd like to call those two, please?
8 BOARD SECRETARY VILLA: Jones.
9 BOARD MEMBER JONES: Aye.
10 BOARD SECRETARY VILLA: Roberti.
11 BOARD CHAIR MOULTON-PATTERSON: No, it was
12 Paparian.
13 BOARD SECRETARY VILLA: Oh, I'm sorry.
14 Paparian.
15 BOARD MEMBER PAPARIAN: Aye.
16 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
17 you.
18 Number seven.
19 MS. WOHL: Agenda item seven is consideration of
20 approval of cost shifting strategies for the biomass to
21 energy industry, a Cal EPA report to the legislature, AB
22 2273.
23 And Judy Friedman and Howard Levenson will
24 present.
25 MS. FRIEDMAN: Good afternoon, Madam Chair and

1 Board members. For the record, I'm Judy Friedman with
2 the Waste Prevention and Market Development Division.

3 As you know, the Board has focused attention in
4 recent months on the topic of energy. Although many
5 issues concerning biomass to energy are not new, the
6 backdrop of current energy supply shortages makes this
7 item on cost shifting strategies very timely.

8 AB 2273 requires Cal EPA to prepare periodic
9 reports to the legislature on the progress of cost
10 shifting strategies for the biomass to energy industry.

11 BOARD CHAIR MOULTON-PATTERSON: Ms. Friedman,
12 can you speak a little closer to the mike? It's not your
13 fault, it's just difficult to hear.

14 MS. FRIEDMAN: I apologize. Is that better?

15 BOARD CHAIR MOULTON-PATTERSON: Yes, thank you.

16 MS. FRIEDMAN: The Board prepared the first cost
17 shift report in 1999. The major action we're seeking
18 today is approval of the second report so that we can
19 forward it to Cal EPA. This does not entail any
20 commitment by the Board in terms of funding or personal
21 resources.

22 To frame this item we've been asked to expand on
23 Martha Gildart's excellent presentation last month by
24 providing you with more information about biomass to
25 energy in California.

1 Pages one through seven of the handout which you
2 have and which have been available on the table in the
3 back of the room can contains this information. It also
4 contains a new analysis of energy market prices and
5 biomass to energy revenues and costs during the last
6 one-half year, and on current legislative proposals.

7 The agenda items indicates that we will also
8 provide written recommendations for changes to the
9 report. Staff's specific recommendations for changes in
10 the draft report are included on pages eight through
11 twelve of the handout.

12 Howard Levenson will now present the highlights
13 of the handout on biomass to energy in general, and on
14 the report specifically.

15 MR. LEVENSON: Good afternoon, Madam Chair and
16 Board members, and thank you, Judy.

17 As Judy said, I'd like to provide you with some
18 of the highlights from the handout that was given to you
19 last week and which was available to the public.

20 I'll try and shorten that in the interest of
21 time so that you can move on to some other items as well.

22 But I do want to take off from where Martha,
23 kind of what Martha talked about last month in setting
24 the stage for the energy framework that is before us at
25 the state level today. And we end up with what we all

1 faced yesterday with the rolling blackouts except, of
2 course, in Glendale and a couple of other spots.

3 And I want to also acknowledge that Bob Judd
4 from the Biomass Energy Alliance is here, and I believe
5 he'd like to speak as well.

6 In 1999 there were about, there were 29
7 operating biomass to energy facilities that used six
8 million tons of biomass, including about one and a half
9 to two million tons of urban wood residuals. These
10 plants had a capacity of six hundred megawatts.

11 However, there were also 28 other plants that
12 had closed from 1980 to 1999. Of these, fourteen were
13 idle, and fourteen were dismantled. More recently three
14 other plants with a capacity of 51 megawatts also became
15 idle.

16 So as a result, today there are only 26 biomass
17 plants to energy operating in the state.

18 Now, as Martha discussed last month, federal and
19 state policies in the 1980s helped diversify the
20 increased reliability of our energy supply. The use of
21 interim Standard Offer Four contracts, the SO four
22 contracts in particular provided favorable fixed prices
23 for the first ten years of the contracts. And the
24 electric utilities were paying upwards of ten cents or
25 more per kilowatt hour for energy production to

1 facilities that were known as qualified facilities, and
2 that included the biomass to energy folks.

3 However, after the ten year period facilities no
4 longer had these high fixed rates, and they instead were
5 paid at market rates. And so this is known as the ten
6 year cliff. This resulted in a 70 to 80 percent
7 reduction in revenues. And with this dramatic reduction,
8 a lot of biomass to energy facilities either reduced
9 their output or they shut down, because costs exceeded
10 revenues.

11 Now, when costs exceed revenues, that's the
12 economic cost shift that the facilities need to overcome
13 in order to remain viable.

14 Public policy measures that are enacted to
15 address this gap in shift cost to other entities are
16 predicated on the concept that biomass to energy provides
17 net positive environmental benefits to California
18 residents.

19 Now before the energy crisis of June of 2000, in
20 early 2000 the total cost of generating electricity at
21 biomass to energy plants was in the range of six to six
22 and a half cents per kilowatt hour. How revenues compare
23 with this cost range is critical to understand in order
24 to understand what's happening today.

25 So, as I mentioned, when the fixed price period

1 ended, producers were then paid much less favorable
2 wholesale rates for their energy. These rates were based
3 on what's known as the short run avoided cost formula, or
4 SRAC, which was developed by the California Public
5 Utilities Commission.

6 Since they had costs of six to six and a half
7 cents per kilowatt hour, and fixed revenues of two cents
8 or so per kilowatt hour for what are known as capacity
9 payments, this meant that they needed to get energy
10 revenues of about four to four and a half cents per
11 kilowatt hour in order to remain viable.

12 During the 1990s the SRAC prices were in the
13 range of two to three cents per kilowatt hour, and they
14 rose slightly in early 2000 to about three and a quarter
15 cents per kilowatt hour. This was not sufficient to
16 cover the gap in revenues.

17 However, AB 1890 also provided that biomass to
18 energy facilities could receive transition payments from
19 the Energy Commission's renewable transitions fund. This
20 provided, this was derived from AB 1890, and they had a
21 pool of \$540 million which was divvied out in different
22 ways, but it did provide for a seven and a half per
23 kilowatt hour for qualifying facilities in 1988 and 1999,
24 and one cent per kilowatt hour in early 2000.

25 Now in 1998 and 1999, the total energy revenues

1 that entered biomass energy producers were able to obtain
2 from the SRAC plus this transition payment was in the
3 range of four to five cents per kilowatt hour. So this
4 was sufficient to cover the gap, and biomass producers
5 responded by increasing their energy output.

6 However, this program need, renewable
7 transitions program also included a ceiling, a declining
8 ceiling above which support payments would no longer be
9 made.

10 The ceiling declined to four cents a kilowatt
11 hour in 2000. And at that point the economics of energy
12 production became marginal, and many facilities responded
13 by reducing their output levels during off peak hours in
14 early 2000. So that's still pre price spikes in the
15 energy market.

16 Now let's talk a little bit about June, 2000 to
17 date. AB 1890 also established the California Power
18 Exchange which began operating in 1998. The Power
19 Exchange, or PX, was a trading board where producers and
20 purchasers established market price for electricity in
21 California. These were transactions that were based on
22 day of delivery or day ahead bids. There were no long
23 term contracts. So essentially it was a spot market.

24 Because the PX price was the spot price for all
25 electricity sales, this allowed spot energy shortages to

1 result in severe spikes in overall electricity prices in
2 the summer of 2000.

3 In late May of 2000, PX rates spiked to a level
4 of forty cents per kilowatt hour, which is more than six
5 times higher than any previous record, and they've since
6 gone much higher than that.

7 Not surprisingly, when these spot prices rose
8 dramatically, biomass to energy revenues also rose, and
9 facilities increased their energy production.

10 Again now, there's two different pricing
11 systems, an SRAC pricing system and a PX pricing system.
12 Facilities that remained on an SRAC system had a net
13 operating margin on paper of approximately three cents
14 per kilowatt hour during the fourth quarter of 2000, a
15 positive net operating margin.

16 Facilities that had switched to PX pricing had a
17 net operating margin on paper of approximately fifteen
18 cents per kilowatt hour during the fourth quarter of
19 2000. So it looked pretty good.

20 However, these numbers should not be interpreted
21 as prosperity for the biomass to energy industry, because
22 the utilities suspended payments to biomass power
23 producers in early December of 2000.

24 So the actual operating margins, although
25 positive for the fourth quarter, were much lower, and the

1 status of revenues for any energy produced after
2 December, early December is totally unknown. In other
3 words, the utilities are not paying for energy that has
4 already been produced since December.

5 In the two years since the first AB 2273 report
6 prepared by the Board, there have been several provision
7 enacted to provide economic support to the industry.
8 These include an agricultural biomass to energy grant
9 program which is administered through the Trade and
10 Commerce Agency, and we sit on the review panel for that.

11 There's been continued funding for renewable
12 energy programs under SB 1194 and AB 995 of 2000. These
13 authorize the collection of \$135 million a year from
14 ratepayers through January, 2012 for renewable energy
15 programs.

16 The Energy Commission has put out a draft plan
17 for these funds, and it would provide or continue the
18 transition payments that I spoke of before through 2005
19 at a level of one cent per kilowatt hour for qualifying
20 facilities under certain market places.

21 The legislature and Governor also implemented or
22 authorized a rice straw grant program through the
23 California Department of Food and Agriculture.

24 And also in 1999 there was legislation passed
25 that modified the definition of biomass conversion to

1 include the controlled combustion of non-recyclable pulp
2 and paper materials. So this ostensibly would increase
3 some of the fuel supply.

4 However, these activities have not been
5 sufficient to ensure the continued operation of existing
6 facilities or the restarting of currently idle
7 facilities. As I noted above, three plants have gone off
8 line in the last few months. So of the seventeen
9 currently idle plants, conversations with industry
10 representatives indicate that about ten to eleven, with a
11 capacity of around 135 to 160 megawatts could be
12 restarted by the middle of this year under certain
13 conditions.

14 Now what are the conditions? What is the public
15 policy framework as of today? Well there are two issues
16 that really frame the debate about providing support for
17 existing and idle facilities.

18 One is the lack of payment by utilities for the
19 electricity that has already been produced by these
20 facilities.

21 And the other is uncertainty about future energy
22 prices.

23 Biomass to energy operators are willing to
24 reopen facilities and continue production of existing
25 ones if they can enter into long term fixed price

1 contracts with fixed energy rates, even at levels lower
2 than current market prices over a five year period.

3 However, the industry as a whole is unwilling to
4 enter into these contracts until they're paid what
5 they're owed by the utilities.

6 Now, as of March, mid-March there had been at
7 least one legislative proposal SBX 47 that would discuss,
8 or that would set future rates for qualifying
9 facilities. It appears that this is not moving and that
10 discussions right now are going on between the Governor
11 and the PUC and the legislature on how to resolve all
12 these issues.

13 And this brings us to yesterday's rolling
14 blackouts. I brought the L.A. Times with me, for those
15 of you who had a chance to see it, this morning's
16 edition, the L.A. Times reported today that over the last
17 very short time period, alternative energy producers,
18 including but above and beyond biomass to energy
19 producers, have reduced their output or gone off-line at
20 a much higher rate over the last three weeks or so.
21 They've cut their usual deliveries by about 3,000
22 megawatts. And this is much more than was being cut
23 several weeks ago, and that was one of the reasons for
24 the rolling blackouts yesterday, along with another
25 couple of other circumstances.

1 The Times also reported that SBX 47 appears
2 doomed, partly because it doesn't address the issue of
3 back payments. It also does not include some provisions
4 that --

5 BOARD MEMBER ROBERTI: This -- which bill was
6 that? Which bill?

7 MR. LEVENSON: SBX 47, and I have a copy I can
8 provide you. It would set rates for future energy prices
9 at about 5.37 cents per kilowatt hour, and set all the
10 terms for the various contracts with different qualifying
11 facilities.

12 At least according to the paper, Senator Keely
13 plans to revive efforts to deal with both the back
14 payment issue and the lower rate issues and other
15 incentives, so we'll have to see how that progresses.

16 And as I said, negotiations on these issues are
17 taking place at the Governor's office and with
18 legislators.

19 So that's a very quick update. There's a lot
20 more detailed information in the handout. And I know
21 that Mr. Judd has some comments to make, but in, that
22 brings us to the end of this little update.

23 And we have provided you with written
24 recommendations based on all of this work to incorporate
25 in the report. And I can either go through those in

1 detail, or we can put 'em into the record depending on
2 your pleasure.

3 But in conclusion, we would recommend adopting
4 option number two, or approving option number two and
5 adopting resolution 2001-69. Option two would allow us
6 to incorporate these changes and any other specific ones
7 that you wish to make and forward the report in a timely
8 manner to Cal EPA.

9 BOARD CHAIR MOULTON-PATTERSON: So staff is
10 recommending option two?

11 MR. LEVENSON: Option two, yes, ma'am.

12 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
13 Levenson. Before I call up Mr. Judd I did want to
14 mention that I received a letter, and all Board members
15 were copied, requesting that RCRC could not be present,
16 and they wanted to go on record requesting Waste Board
17 support for legislative changes to modify existing
18 statutes that limit the amount of diversion credit local
19 jurisdictions can claim for biomass conversion for power
20 generation.

21 Mr. Judd, Mr. Bob Judd.

22 MR. JUDD: Madam Chair and Board members, I'm
23 Bob Judd. I serve as Executive Director of the
24 California Biomass Energy Alliance which is an
25 association of the owners of the state's biomass power

1 plants.

2 First, with due respect, we're most appreciative
3 of the work that Board staff has done on this report.
4 The 1999 cost shift report that the Board did,
5 unfortunately lost at the Governor's office, nonetheless
6 was an excellent piece of work, this simply improves upon
7 that. It's a very good analysis, very thoughtful piece
8 of work.

9 Having said that, we would like to make a
10 different recommendation to the Board today, and I'd like
11 to explain why before I make that recommendation.

12 As you know, among the renewable energy
13 technologies, biomass is perhaps most closely linked to
14 the mandate of the Integrated Waste Management Board.

15 Out of the six million tons of wood waste we
16 convert to electricity annually, about one and a half
17 million tons comes from materials that diverted from
18 landfill disposal.

19 At the present moment we are in a life or death
20 financial and political struggle in the midst of this
21 electricity debacle we currently have. Literally the
22 fate of California's existing biomass industry will be
23 decided within the next thirty days.

24 There are a number of solutions in play, Howard
25 spoke of one of them, that is Assembly Bill 47X that was

1 developed by Mr. Batten with assistance from Assemblyman
2 Keely. That bill is a reflection of our industry's
3 voluntary action to reduce the cost of electricity that
4 we would sell into the marketplace in return for
5 something that seems not too unreasonable. That is,
6 getting paid for the electricity we've already generated,
7 which PG&E and Edison have sold to consumers like you and
8 I, consumers like you and I have paid the bill to PG&E
9 and Edison, PG&E and Edison have not paid us what they
10 owe us. They owe us, at this moment, \$170 million.

11 That means that we bought the fuel, we paid for
12 labor, we've done our O and M, and we haven't gotten a
13 penny back for nearly four months in many cases in our
14 facilities. We are literally at the breaking point.

15 The stories that you see in the L.A. Times today
16 will continue through this week about facilities going
17 off-line, simply are a reflection of common sense. We've
18 reached the breaking point, and we can continue to incur
19 no more debt with no assurance that we'll get paid.

20 At some point you simply stop showing up for
21 work if the boss doesn't give you a paycheck, and that's
22 the situation that we find ourselves in now.

23 We've been talking about the cost of the biomass
24 power and the QF's in general. Just briefly as
25 background for you, right now, today, the electricity

1 that DWR is buying on behalf of the state, they're paying
2 about 27 cents a kilowatt hour for today.

3 The so-called SRAC that Howard speaks of before,
4 today is at seventeen cents. If we were getting paid in
5 the renewable energy sector, that's what we would get
6 paid.

7 We have volunteered to provide electricity to
8 the state at a level of eight cents, less than a third of
9 what the state's paying to buy electricity from state
10 generators now.

11 It's held up politically, nobody wants to take
12 responsibility for solving the problem, yet the
13 legislature is having great difficulty coming to critical
14 mass on this issue.

15 The Governor's office has taken the ball out of
16 legislature's hands. He seems to have passed it to the
17 PUC, the PUC has passed it back to the legislature,
18 meanwhile the debt continues to grow for us, and the
19 problem remains unresolved.

20 Under these circumstances, in which we have
21 uncertain revenues and the fate of our industry on the
22 line, we would request that the Board not approve this
23 report today, but rather give it a continuance for thirty
24 days.

25 This will be resolved in thirty days or the

1 biomass industry will not be operating after that period
2 of time. The impetus of the blackouts that started
3 yesterday and will continue over time will force
4 legislative action. The PUC is addressing this issue on
5 the 27th of this month.

6 And I guess what I'm saying is that the snapshot
7 that's presented in the draft report that you have now is
8 quite ephemeral, and it will be a quite different
9 snapshot than that that we will have within thirty days.
10 Because this simply will be decided during that period of
11 time.

12 We would like to continue to work with your
13 staff, as we have done, to update this report and allow a
14 more coherent report to be presented within the very near
15 future on this.

16 We would prefer to do it here with the Board's
17 approval rather than have this go to Cal EPA and then ask
18 Cal EPA to put a hold on it and to have weekly or
19 biweekly updates coming from here where you would get,
20 you would have a piecemeal report rather than a report
21 that is more accurate and more coherent.

22 So that's our request to the Board today. We
23 realize that your responsibility is to get a document to
24 Cal EPA, and they respond to the legislature. We
25 recognize it well because we wrote the bill to which this

1 report responds.

2 We're in regular contact on the politics of this
3 issue with Cal EPA, with members of the legislature. We
4 think there's relatively little to lose and a lot to gain
5 if this were held for finetuning here for a thirty day
6 period.

7 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
8 Judd. I do have a question. I have a lot of sympathy
9 for the biomass industry, and I've seen firsthand what's
10 going on. I know the report is due. What is the
11 downside to us having it overdue?

12 INTERIM EXECUTIVE DIRECTOR BRUCE: The downside
13 would be that we would be late and we would have to just
14 ask, I think if that's fine, with Cal EPA.

15 MR. JUDD: The Energy Commission finds itself in
16 a similar situation. I think they have a March 31 due
17 date on their AB 995 report that Mr. Levenson referred
18 to, the investment plan for renewable energy. They
19 simply made a request, a verbal request and got verbal
20 approval from the Governor's office, because they
21 anticipate a massive rewrite of the draft report that
22 they've gone done based on the outcome of this. And as I
23 was told by one of the commissioners there, it was as
24 simple as a phone call to get an extension.

25 BOARD CHAIR MOULTON-PATTERSON: Board members?

1 Mr. Jones.

2 BOARD MEMBER JONES: Madam Chair, I guess for
3 Howard, it's clear, what did you say, they lost three
4 biomass plants in the last week, two weeks?

5 MR. LEVENSON: No, in the last several months.

6 MR. JUDD: Since December.

7 MR. LEVENSON: Yeah, since December. But the
8 existing facilities have severely curtailed their
9 production.

10 BOARD MEMBER JONES: For non-payment. And I
11 think it's important that, you know, if the Governor's
12 office, Cal EPA is looking for this report to help paint
13 a picture of what the opportunities are in the biomass
14 industry for that energy, we've got to include those
15 kinds of discussions. We've also got to make sure that
16 we've identified those plants that are going out, and why
17 they are leaving the grid.

18 I mean it doesn't seem, while I appreciate the
19 timing of a one month continuance from the standpoint of
20 Mr. Judd's clients, I think we want to make sure that
21 this report has all of that available information in it.
22 Because if they read a report that I think is a very good
23 report, but it doesn't really put the emphasis on the
24 fact that this existing infrastructure is disappearing
25 and will continue to disappear, we've impacted the cities

1 and counties, under AB 939 we've impacted the legislature
2 and the Governor trying to put together an energy plan,
3 and I think for the sake of thirty days to include those
4 kinds of discussions would make sense because it would be
5 more timely. Because this took you a while, Howard, to
6 put together, and it is a great report, it just, I think,
7 needs to have the emphasis on the fact that we are losing
8 facilities.

9 And for the members, just so you know, when we
10 were, when they were going through this deregulation of
11 1890, we were getting a monthly update policy committee
12 meeting every month because we not only had biomass
13 plants that were in jeopardy, we had, we had all of our
14 waste, all of our landfill gas to energy, we were trying
15 to get put into that first tier, but Mr. Judd's
16 ability -- no, it didn't happen. But we actually did get
17 a little bit, but we were, this was every month in our
18 policy committee dealing with this, with these issues,
19 and I think then we saw 42 plants go down to 29, right
20 Howard?

21 MR. LEVENSON: Yes.

22 BOARD MEMBER JONES: So clearly we went from 42
23 to 29 because of pricing of fuel and the fact that that
24 cliff was in place. And now we may see it, because
25 they're not paying the bill, we may lose more. And those

1 are outlets for that material that can't be composted.

2 I'd like to take the month to include those
3 discussions, Howard, and those should be easy enough to
4 do, correct? So that we give them a true picture of how
5 the economics of this is, could devastate this industry.

6 MR. LEVENSON: I think we have most of the
7 information. We really need to just track what's
8 happening exactly today and in the next couple of weeks.

9 And so if that's the Board's pleasure, I just
10 want to make sure we've clarified that this will be an
11 item that's continued to next month.

12 BOARD CHAIR MOULTON-PATTERSON: Until April.

13 MR. LEVENSON: And what we would do is
14 incorporate the subject of discussions with Bob and
15 others, we would incorporate the written material that we
16 already have into the report, continue to update it up
17 until, I don't know, a week before the Board meeting,
18 something to that effect. And then meanwhile I will
19 communicate with Cal EPA.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
21 Levenson, we appreciate that. Thank you, Mr. Judd, it
22 will be continued until April.

23 At this time we'll take a ten minute break.

24 (Thereupon there was a brief recess.)

25 BOARD CHAIR MOULTON-PATTERSON: I've had a lot

1 of inquiries on how much longer we're going to go
2 tonight. We're going to go into our diversion planning
3 and local assistance with the hope that we can finish
4 that.

5 Our court reporter has to leave by 6:00 o'clock
6 tomorrow night so we don't want to save too much for
7 tomorrow. So it's my hope that we'll be out of here
8 before six tonight.

9 With that, Pat's all ready.

10 MR. SCHIAVO: Okay. I --

11 BOARD MEMBER JONES: Ex-partes.

12 BOARD CHAIR MOULTON-PATTERSON: Oh, excuse me,
13 I'm so sorry, I do that every time.

14 Mr. Eaton, ex-partes.

15 BOARD MEMBER EATON: I had just a quick meet and
16 hello with Matt Cotton regarding item number 25.

17 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton, could
18 you repeat that, please? She didn't hear it.

19 BOARD MEMBER EATON: Sure. I had a meet and
20 greet with Matt Cotton regarding item number 25.

21 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.
22 Jones.

23 BOARD MEMBER JONES: A quick discussion with Bob
24 Judd, and then a hello, meet and greet to Matt Cotton,
25 Chuck White. Thanks.

1 BOARD CHAIR MOULTON-PATTERSON: Okay. Mr.
2 Medina.

3 BOARD MEMBER MEDINA: Meet and greet with
4 Michelle Leonard, SCS Engineers.

5 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

6 BOARD MEMBER PAPARIAN: None.

7 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti.

8 BOARD MEMBER ROBERTI: None.

9 BOARD CHAIR MOULTON-PATTERSON: And I just had a
10 quick conversation with Bob Judd. Okay.

11 We're on number eight.

12 MR. SCHIAVO: Okay. Good afternoon, Board
13 members. Pat Schiavo of the Board Planning and Local
14 Assistance Division.

15 And item number eight is the consideration of
16 the staff recommendation of the completion of the
17 compliance order, and the hearing or the findings of the
18 1997-1998 biennial review for the City of Ontario. And
19 this item will be presented by Tabetha Willmon,
20 supervisor.

21 MS. WILLMON: Good afternoon, Madam Chair and
22 Board members. I'm Tabetha Willmon with the Board's
23 Office of Local Assistance, Central Section.

24 On June 22nd, 1999 the Board issued a compliance
25 order to the City of Ontario which required the city to

1 work with Board staff of the Office of Local Assistance
2 to Implement programs selected in the city's source
3 reduction and recycling element.

4 The city worked with Office of Local Assistance
5 staff to develop an assistance plan and a work plan with
6 specific tasks and goals for implementing all of the
7 city's source reduction recycling element selected
8 programs.

9 The city has reported that they have completed
10 all tasks listed in their assistance plan and their work
11 plan, and I'd like to outline some of these tasks.

12 They include implementation of a city-wide
13 residential green waste and commingled recycling
14 collection program.

15 Implementation of public education programs that
16 include distributing brochures, water bill stuffers, a
17 newsletter, newspaper, city magazine articles.

18 Opening a second chance store and a Christmas
19 tree recycling.

20 Implementation of grasscycling and landscape
21 management programs.

22 Implementation of an internal recycling and
23 waste prevention program that includes working with other
24 city agencies.

25 Implementing a buy recycled products policy,

1 collection of mixed office paper, and giving tree
2 trimmings to the green waste processor.

3 Finally, identifying the largest commercial
4 generators, conducting trainings on waste assessments,
5 and also conducting actual waste assessments on the
6 largest commercial generators.

7 In addition, Board staff have conducted the
8 1997-98 biennial review for the City of Ontario's source
9 reduction and recycling element and household hazardous
10 waste element.

11 The city has reported that they have implemented
12 source reduction recycling and public education programs
13 consistent with the programs selected in their source
14 reduction and recycling element.

15 They've also reported that they have implemented
16 programs for public education and the safe collection and
17 treatment of household hazardous waste, consistent with
18 the programs selected in their household hazardous waste
19 element.

20 Therefore, staff recommend that the Board end
21 the city's compliance order and accept the city's
22 1997-1998 biennial review findings.

23 This concludes staff presentation, and I believe
24 the city's here today and they would like to make a brief
25 presentation.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you very
2 much. Ken Jeske, Director of Public Works for the City
3 of Ontario.

4 MR. JESKE: Thank you, Chair and Board members.
5 Ken Jeske with the City of Ontario, I'm representing our
6 city today.

7 Obviously we concur with your staff
8 recommendation. We've appreciated the support of the
9 Office of Local Assistance for the past year and a half.

10 Ontario, for the record, was a leader prior to
11 AB 939 in recycling and solid waste. Ontario had already
12 implemented a plan back when the discussions were going
13 on to formulate Assembly Bill 939. Unfortunately, some
14 of those early programs didn't always work to the level
15 that we not expect. That's one of the penalties of being
16 first in a business.

17 We spent our ratepayers dollars on a technology
18 which at the time provided much benefit for recycling but
19 failed to meet the goals as they came out structured in
20 AB 939.

21 Ontario recognized this program and problem
22 about three years ago. Ontario had moved forward and, in
23 fact, the city council had adopted a program plan which
24 you saw before you, and implemented a rather significant
25 rate adjustment to fund the nearly \$5 million worth of

1 equipment the staff needed to carry out the program at
2 the time we came before the Board and the Board
3 determined to put a compliance order on.

4 We did not object strenuously at that time
5 because we knew working with your office staff we would
6 be able to document the great progress that we had made.
7 We're pleased that the Board staff agrees that we have
8 been successful, and that members in our community have
9 embraced some of the various programs.

10 I'm not going to go back and list everything, we
11 did give you a little handout on some of the things we've
12 done, your staff has done a good job on that, but there's
13 a couple of things I would like to note.

14 Out of those thirty largest industries that we
15 have in our growing town, nine of them are RAP award
16 winners. We'll stick that percentage up against
17 anybody's in the state.

18 We also, just listening to some of the
19 conversation earlier today; yes, we have done a number of
20 significant street projects using rubberized asphalt and
21 other recycled materials. We're using recycled materials
22 in our parks, and we're even putting out a new model
23 three container system into our parks.

24 And of other excitement, we are working with six
25 other agencies and the Inland Empire Utilities Agency,

1 I'm not going to use the word from your last agenda item,
2 I will use the word organics management to develop a very
3 significant organics management system and center for the
4 Chino Valley/Ontario area. You won't see that developed
5 in your report because we're just now in the development
6 phases.

7 The federal government has set aside about \$5
8 million for the design in initiating development of such
9 a facility. We're very excited about it. You all may
10 hear more about that in the time to come. It's not a
11 transformation project, it's a project that would take
12 the waste material from a portion of the city, which
13 includes a very significant dairy area; turn it into
14 usable products; use a process such as digestion, which
15 could create fuel such as methane to drive generators;
16 and then work within our member agencies to have
17 contracts for sale of the power produced.

18 So we're really on the cutting edge of a lot of
19 technologies. We think we're slowly and surely and
20 lately rapidly regaining our leadership role that we had
21 prior to AB 939, and we appreciate the Board staff's
22 concurrence, and request that the Board agree with that
23 recommendation.

24 Thank you.

25 BOARD CHAIR MOULTON-PATTERSON: Thank you for

1 coming.

2 Mr. Paparian.

3 BOARD MEMBER PAPARIAN: Mr. Jeske, in our staff
4 report on this item there was mention that, among other
5 things that the city did, was to initiate some programs
6 at the airport. I would imagine that would have been,
7 presented some unique problems since it's the City of Los
8 Angeles that operates the airport.

9 MR. JESKE: I would like to think it presented
10 some unique opportunities rather than problems. Yes, it
11 is run by the City of Los Angeles, and yes, the City of
12 Los Angeles has policies toward aggressive recycling
13 programs.

14 Our city works very closely with L.A. World
15 Airports, LAWA, regarding development issues and
16 regarding operational issues on everything from public
17 safety, fire prevention, ground access, and yes,
18 recycling. And we have a two step program with them
19 where they conduct it in building facilities, and we
20 conduct facilities outside the building to accommodate
21 and handle the materials they produce.

22 We do the same thing with the Ontario Mills mall
23 which is a very large generator in town. And it's given
24 us a good opportunity to work on common grounds with L.A.
25 World Airports which carries over into a number of other

1 areas.

2 It was one of the items I recall that one of the
3 Board members specifically requested and mentioned that
4 we do in our compliance hearing.

5 BOARD MEMBER PAPARIAN: From your experience,
6 are there more opportunities with the airports that
7 perhaps we could help, you know, localities pursue? Or
8 are you comfortable that you're able to do the best you
9 can in an airport environment?

10 MR. JESKE: I guess it depends on the
11 relationship between the local city and their local
12 airport. Whether it's a city airport or, in this case,
13 one by another city, and what the cooperative attitude
14 is. At this point in time we think we have a very good
15 working relationship.

16 I imagine if we talked a long while they'd say
17 there's things we can still do, as we would say, and they
18 would probably appreciate funding for a regional approach
19 to handle waste materials that come out of the airport.

20 At this time we're not dealing with some of the
21 waste materials that may come from the airplanes
22 themselves, but we're dealing with the paper supplies and
23 the consumer supplies out of the airport as well as some
24 of the back end processing cardboard and some of the
25 things that they get out of the large use of the air

1 freight.

2 BOARD MEMBER PAPARIAN: So right now you're not
3 dealing with things like food waste and --

4 MR. JESKE: We don't have a, there's not a
5 separate program for food waste. Containers, yes; food
6 waste, no. Food containers, yes.

7 BOARD MEMBER PAPARIAN: Thank you.

8 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank you
9 very much. Any other questions?

10 BOARD MEMBER JONES: Madam Chair.

11 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

12 BOARD MEMBER JONES: I'll move adoption of
13 resolution 2000-57 for consideration of the staff
14 recommendation with the completion of compliance order VR
15 9905 and consideration of the 97-98 biennial review
16 findings for the SRRE and the HHWE --

17 BOARD MEMBER MEDINA: Second.

18 BOARD MEMBER JONES: -- for the City of
19 Ontario.

20 BOARD CHAIR MOULTON-PATTERSON: We have a motion
21 by Mr. Jones, seconded by Mr. Medina.

22 Please call the roll.

23 BOARD SECRETARY VILLA: Eaton.

24 BOARD MEMBER EATON: Aye.

25 BOARD SECRETARY VILLA: Jones.

1 BOARD MEMBER JONES: Aye.
2 BOARD SECRETARY VILLA: Medina.
3 BOARD MEMBER MEDINA: Aye.
4 BOARD SECRETARY VILLA: Paparian.
5 BOARD MEMBER PAPARIAN: Aye.
6 BOARD SECRETARY VILLA: Roberti.
7 BOARD MEMBER ROBERTI: Aye.
8 BOARD SECRETARY VILLA: Moulton-Patterson.
9 BOARD CHAIR MOULTON-PATTERSON: Aye.
10 BOARD MEMBER JONES: Madam Chair.
11 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.
12 BOARD MEMBER JONES: Just real quickly. I want
13 to congratulate the City of Ontario for everything you
14 said that day at the meeting when you got put on the
15 compliance order came to fruition, and I just want to
16 congratulate you. There was never a doubt.
17 BOARD CHAIR MOULTON-PATTERSON: Thank you.
18 Number nine.
19 MR. SCHIAVO: In the interest of time, Zane
20 Poulson will be presenting and introducing items nine,
21 ten, and eleven.
22 BOARD CHAIR MOULTON-PATTERSON: Okay, nine and
23 ten.
24 MR. POULSON: And eleven. Item number nine is
25 consideration of staff recommendation on the completion

1 of compliance order and the 1997-1998 biennial review
2 findings for the City of La Habra Heights, Los Angeles
3 County. I'm Zane Poulson with the Board's Office of
4 Local Assistance, South Section, if I need to say that.

5 On June 23rd, 1999, the Board issued the City of
6 La Habra Heights a compliance order which required the
7 city to work with Board staff of the Office of Local
8 Assistance, or OLA, to implement programs selected in the
9 city's source reduction recycling element or SRRE.

10 The city worked with OLA staff to develop an
11 assistance plan and work plan for specific tasks and
12 goals for implementing all of the city's SRRE selected
13 programs.

14 The city has reported that they have completed
15 all tasks listed in their assistance plan and work plan,
16 including a residential green waste diversion program;
17 expanding dropoff recycling; a construction and
18 demolition ordinance; a procurement ordinance; and public
19 education programs.

20 I believe that they distributed a flyer that
21 they recently mailed out to all of their residents to the
22 Board.

23 In addition, Board staff has conducted the
24 1997-1998 biennial review for the City of La Habra
25 Heights, source reduction recycling element and household

1 hazardous waste element.

2 Therefore, staff recommend that the Board end
3 the city's compliance order, and accept the city's
4 1997-1998 biennial review findings.

5 There are representatives here today from the
6 city. Are there any -- this concludes staff
7 presentation.

8 Are there any questions for staff?

9 BOARD CHAIR MOULTON-PATTERSON: Any questions?

10 BOARD MEMBER EATON: I have a couple.

11 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton.

12 BOARD MEMBER EATON: Can you explain to me what
13 the cardboard recycling is at the golf course? Is it,
14 was that a typo or should there have been that they are
15 recycling green waste at the golf course? Or do they, is
16 there such a volume of cardboard?

17 MR. POULSON: They do have quite a volume of
18 cardboard, and when we first began working with them they
19 actually had so much that it was filling up their
20 dumpsters so that they were actually taking it and baling
21 it so that they could fit it all into their dumpster to
22 be disposed of.

23 And so the program start had, they had to work
24 with their waste management in order to find a place
25 where they could take this to a market to be diverted.

1 And I know it doesn't seem like a lot for the
2 city, but the city is very small so it is --

3 BOARD MEMBER EATON: Right, I'm familiar.

4 MR. POULSON: -- it does make quite a bit of a
5 difference. And they do have an extensive grasscycling
6 at the golf course. The golf course was actually given a
7 RAP award for what they do. It's actually a country club
8 and so it's fairly large. It takes up a good portion of
9 the city. And they did go and buy all new equipment so
10 that they could grasscycle at that golf course. It was
11 one of the first ones to really turn everything towards
12 grasscycling to be able to divert all of their green
13 waste.

14 BOARD MEMBER EATON: And is this here recycled
15 paper?

16 MR. POULSON: I don't know.

17 BOARD MEMBER EATON: I thought we had -- well
18 maybe we don't have, it's our own literature. Sometimes
19 it's helpful to even get a marking that it is recycled
20 paper on it as well.

21 BOARD MEMBER JONES: Madam Chair.

22 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

23 BOARD MEMBER JONES: I hope it is recycled
24 content paper.

25 I'll move adoption of resolution 2001-59 for the

1 completion of the compliance order 9906, and
2 consideration of the 97-98 biennial review for the City
3 of La Habra Heights in L.A. County.

4 BOARD MEMBER MEDINA: Second.

5 BOARD CHAIR MOULTON-PATTERSON: Okay. Motion by
6 Mr. Jones, second by Mr. Medina.

7 Please call the roll.

8 BOARD SECRETARY VILLA: Eaton.

9 BOARD MEMBER EATON: Aye.

10 BOARD SECRETARY VILLA: Jones.

11 BOARD MEMBER JONES: Aye.

12 BOARD SECRETARY VILLA: Medina.

13 BOARD MEMBER MEDINA: Aye.

14 BOARD SECRETARY VILLA: Paparian.

15 BOARD MEMBER PAPARIAN: Aye.

16 BOARD SECRETARY VILLA: Roberti.

17 BOARD MEMBER ROBERTI: Aye.

18 BOARD SECRETARY VILLA: Moulton-Patterson.

19 BOARD CHAIR MOULTON-PATTERSON: Aye. Okay.

20 Mr. Poulson, number ten.

21 MR. POULSON: Item number ten is consideration
22 of staff recommendation on the completion of compliance
23 order and the 1997-1998 biennial review findings for the
24 City of Paramount in Los Angeles County.

25 On October 20th, 1999, the Board issued the City

1 of Paramount a compliance order which required the city
2 to both correct diversion rate measurement inaccuracies,
3 and work with Board staff of the Office of Local
4 Assistance, or OLA, to implement programs selected in the
5 cities source reduction recycling element, or SRRE.

6 The city chose to do a waste generation study
7 for 1998 and request a new 1998 base year in order to
8 correct the diversion rate measure inaccuracies.

9 The Board approved the city's new 1998 base year
10 with the diversion rate of 37 percent on August 22nd,
11 2000.

12 The city worked with OLA staff to develop an
13 assistance plan and work plan with specific tasks and
14 goals for implementing all the city's SRRE selected
15 programs.

16 On December 29th, 2000, the city submitted the
17 final compliance order quarterly report in which the city
18 reports that they have completed all plans listed in the
19 assistance plan and the work plan, including
20 implementation and promoting residential green waste
21 collection program; implementing a procurement policy;
22 publicizing buy back centers; providing information and
23 assistance to businesses to divert waste; and expand
24 public education of waste reduction programs.

25 In addition, Board staff have conducted the

1 1997-1998 biennial review for the City of Paramount
2 source reduction recycling element and household
3 hazardous waste element.

4 Therefore, staff recommend that the Board end
5 the city's compliance order and accept the 1997-1998
6 biennial review findings.

7 There are representatives here today from the
8 city.

9 This concludes the staff presentation. Are
10 there any questions for staff?

11 BOARD CHAIR MOULTON-PATTERSON: Thank you. Any
12 questions on item number ten?

13 BOARD MEMBER JONES: Madam Chair.

14 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

15 BOARD MEMBER JONES: I'll move adoption of
16 resolution 2001-60, consideration of the staff
17 recommendation for completion of compliance order VR
18 99-75, and consideration of the 97-98 biennial review
19 findings for the SRRE and the HHWE for the City of
20 Paramount in L.A. County.

21 BOARD MEMBER MEDINA: Second the motion.

22 BOARD CHAIR MOULTON-PATTERSON: Motion by Mr.
23 Jones, seconded by Mr. Medina. Please, without, without
24 -- what is it?

25 BOARD MEMBER JONES: Substitute.

1 BOARD CHAIR MOULTON-PATTERSON: Substitute.

2 Substitute the previous roll call unless there's any
3 objections, is what I'm trying to say. Okay.

4 We'll go on to number 11.

5 MR. POULSON: Okay. Item number eleven is
6 consideration of staff recommendation on the 1997-1998
7 biennial review findings for the source reduction and
8 recycling element and household hazardous waste element
9 for the City of Lemon Grove, San Diego County.

10 Board staff have conducted the 1997-1998
11 biennial review for the City of Lemon Grove source
12 reduction recycling element, or SRRE, and household
13 hazardous waste element, or HHWE.

14 The city has reported that they have implemented
15 source reduction and recycling and public education
16 programs consistent with programs selected in their SRRE.

17 They have also reported they have implemented
18 programs for public education and the safe collection and
19 treatment of household hazardous waste consist with
20 programs selected in their HHWE.

21 The city has accepted the Board's default
22 diversion rate of 37 percent for 1997. However, the city
23 does not accept the default diversion rate of seven
24 percent for 1998. The city claims that the reason for
25 the decline in the diversion rate from 1997 to 1998, is

1 disposal from a large Caltrans project located within the
2 City of Lemon Grove, La Mesa, and a portion of the
3 unincorporated San Diego County.

4 The city is requesting a deduction of 8,511 tons
5 of waste which was attributed to the City of Lemon Grove
6 from the Caltrans project for 1998.

7 In addition, CalTrans has estimated that
8 approximately 80 to 90 percent of the waste generated by
9 the project was diverted.

10 The city claims that because they had no control
11 over the diversion or disposal from the project, and they
12 were not responsible for approving the project, they
13 should not be made responsible for the impact of the
14 project's disposal on their diversion rate.

15 In addition, the city is not able to establish a
16 new base year for 1998 because it is not a representative
17 here.

18 As a result of the system using adjusted
19 factors, the city's assigned the disposal, but does not
20 directly see the results of the diversion.

21 The city could conduct a generation study and
22 submit an annual, and submit an annual generation rate
23 for each year.

24 The city has selected to pursue requesting the
25 Board for the reduction. If the deduction were approved,

1 the resulting diversion rate for 1998 would be 33
2 percent, which the city claimed is much more consistent
3 with the city's solid waste diversion efforts for 1998.

4 Staff are not recommending approval of the
5 deduction as current Board policy does not allow a
6 jurisdiction to receive a reduction from state agency
7 waste generated within its borders, other than for
8 publicly declared disasters.

9 Board staff does not agree with the city's
10 default diversion rate of seven percent for 1998 or
11 this -- I'm sorry.

12 Board staff does agree that the city's diversion
13 rate does not accurately represent the city's diversion
14 efforts for 1998.

15 Therefore, Board staff recommend that the Board
16 approve the diversion rate of 37 percent for 1997, and
17 assign the city an ND for not determined for 1998.

18 It is not possible to accurately determine the
19 city's diversion rate with the currently available
20 information.

21 Also, 1997 and 1998 are not goal years.
22 Assignment of an ND has been the approach used for other
23 jurisdictions in situations where it is not possible to
24 accurately determine the diversion rate.

25 In 1997, 55 jurisdictions were assigned ND's; in

1 1998, 23 jurisdictions were assigned ND's.

2 In addition, Board staff has also recommended
3 that the city, to the city that they could submit an SB
4 1066 request to extend their fifty percent compliance
5 year to 2003, as the Caltrans project would be completed
6 in 2002, and that will be the first year the city will be
7 measuring without the Caltrans disposal.

8 There are representatives here today from the
9 city.

10 This concludes staff presentation. Are there
11 any questions for staff?

12 BOARD CHAIR MOULTON-PATTERSON: Mr. Eaton.

13 BOARD MEMBER EATON: Is the Caltrans tonnage
14 that you have here in the chart, it says with CalTrans
15 tonnage, is that based upon the full tonnage or the 89
16 percent diversion?

17 MR. POULSON: That's based upon the disposal,
18 the full disposal tonnage that went to the landfill.
19 They were able to measure basically because the haulers,
20 Caltrans contracts with separate haulers in the city, so
21 it's easy for them to go and track, get the list of
22 haulers from Caltrans and go and look at the wastes
23 coming, and be able to identify them as Caltrans, that as
24 Caltrans disposal.

25 So it's fairly easy to go and find the 8,511

1 tons.

2 BOARD MEMBER EATON: But you said Caltrans
3 diverted 80 or 90 percent.

4 MR. POULSON: Yes.

5 BOARD MEMBER EATON: So what I'm trying to get
6 at is, because there's a policy question here whether or
7 not we're going to allow state projects such as this, I
8 don't have any problem, I think the city's done a good
9 job, what I'm trying to figure out is did you calculate,
10 if you belief Caltrans diverted 80 to 90 percent, that
11 would show up in disposal, would it?

12 MR. POULSON: No, it wouldn't.

13 BOARD MEMBER EATON: So what I'm trying to
14 figure out is Caltrans not telling us the truth? And I
15 don't want to penalize the city for CalTrans not telling
16 us the truth.

17 MR. POULSON: We don't have --

18 BOARD MEMBER EATON: So is it, do we calculate
19 based upon what Caltrans represented, or do we just
20 attribute all of that waste as disposal and not take
21 Caltrans at its word?

22 MR. POULSON: It was all, the only thing we were
23 able to get was the disposal. The diversion is just an
24 estimate so we, they just estimated somewhere between 80
25 and 90 percent. But they don't have a solid number for

1 how much is being diverted.

2 BOARD MEMBER EATON: I'm just trying to get 80
3 to 90 percent of what?

4 MR. POULSON: 80 to 90 percent of the
5 generation. So that what you're seeing, the disposal
6 represents ten to twenty percent of what was generated.
7 And they just, they're not asking for the diversion to be
8 added in, they just want the disposal to be deducted to
9 keep that from showing up as disposal against them.
10 Since they don't get credit for the diversion because of
11 the way that the calculator works, they'd have to do a
12 generation based study in order to capture that.

13 BOARD MEMBER JONES: But --

14 BOARD CHAIR MOULTON-PATTERSON: Go ahead, Mr.
15 Jones.

16 BOARD MEMBER JONES: To follow up on Mr. Eaton's
17 question, you were able to quantify because of the
18 disposal reporting system 8,511 tons.

19 MR. POULSON: Right.

20 BOARD MEMBER JONES: But what was really
21 generated from the project is something in excess of
22 90,000 tons.

23 MR. POULSON: Yes, and we're not sure exactly
24 what that is.

25 BOARD MEMBER JONES: Okay.

1 MR. POULSON: Because we had to work with them
2 to --

3 BOARD MEMBER JONES: So 89,000 tons basically
4 got diverted, recycled, reused as road base, whatever;
5 nine thousand went to the disposal reporting system as
6 disposal.

7 MR. POULSON: Yes.

8 BOARD MEMBER JONES: So the non-, so they can't
9 add that because we're a disposal based system. They
10 would have to do new base generation, and this wouldn't
11 be reflective of an ongoing thing.

12 So in asking us to accept the diversion rate of
13 whatever and then --

14 MR. POULSON: 33 percent.

15 BOARD MEMBER JONES: 33 or something, 32, and
16 then a non-detectible or non-determined for '98, it's not
17 a, it's not a, it's not a goal year. They don't get
18 penalized that way for that.

19 MR. POULSON: Yes, and that's the staff
20 recommendation, to give them the 37 percent for '97, and
21 just the ND because we're not really sure how much, what
22 their total diversion was because we don't have that, we
23 haven't quantified exactly how much was diverted from
24 that project. We only know the disposal.

25 BOARD MEMBER JONES: Okay. I'm going to make

1 the motion, but I do have a question.

2 MR. POULSON: I believe the city wants --

3 BOARD CHAIR MOULTON-PATTERSON: I have somebody
4 who wants to speak. Maybe it's just for questions. Lisa
5 Constande.

6 MR. POULSON: Yeah, she wants to speak.

7 BOARD CHAIR MOULTON-PATTERSON: Would you liked
8 to speak?

9 BOARD MEMBER JONES: Can I just ask one question
10 first?

11 BOARD CHAIR MOULTON-PATTERSON: Sure.

12 BOARD MEMBER JONES: You can come towards the
13 podium. If this was the, if this was the goal year they
14 would be able to use the diversion study guide and
15 include that in and then use it as an outlier that
16 wouldn't count, right, for a new base year if they were
17 faced with this as being the goal year.

18 MS. MORGAN: Yeah, Cara Morgan, Office of Local
19 Assistance. However what we're really looking at for the
20 jurisdiction is looking, recommending the SB 1066
21 approach for them. Because what that would do, since
22 they are suggesting that the Caltrans project is the
23 disposal that's hurting them, that Caltrans project does
24 end in 2002. If their goal year was extended out, then
25 they would be able to measure on a year that it's just

1 the city's waste.

2 BOARD MEMBER JONES: Gotcha.

3 MS. MORGAN: So we think that's the best
4 approach for them. I'm not sure that they're, that they
5 want to take the approach of doing a new base year for a
6 number of reasons.

7 BOARD MEMBER JONES: No, yeah, I think SB 1066
8 would be the right approach.

9 Go ahead. Thanks.

10 BOARD CHAIR MOULTON-PATTERSON: Okay.

11 MS. CONSTANDE: Madam Chair, members of the
12 Board. Thank you for this opportunity to speak to you
13 today. I am Lisa Constande and I am the Community
14 Services Director for the City of Lemon Grove.

15 And Lemon Grove is about 3.8 square miles, and
16 we have a population of about 25,000, and we're located
17 in San Diego County. And to administer and operate our
18 city on a daily basis we have 42 full-time employees.

19 I'm going to take about seven minutes of your
20 time, and I'll start with a bottom line summary of our
21 situation, and I'll explain to you why our situation is
22 truly exceptional, and explain why our situation is
23 important.

24 And then I'm going to introduce to you Mr. Ramon
25 Martinez from Caltrans to speak on the magnitude of the

1 Caltrans project that is currently under construction in
2 Lemon Grove. And Mr. Martinez was kind enough to come
3 here today. And CalTrans has been great, they've been
4 very understanding about the impact on our community, and
5 didn't really realize when they started that another
6 state agency was counting how much waste they were
7 hauling to our landfills.

8 The bottom line summary is in 1998 the City of
9 Lemon Grove disposed of 22,018 tons of waste, and we
10 received a respectable 33 percent diversion rate,

11 However, also in 1998 Caltrans began the SR
12 125/94 interchange project. And in 1998 this
13 construction project generated, and there's a handout for
14 you, and it's number one, 8,511 tons of waste. A hundred
15 percent of this project was attributed to Lemon Grove
16 although it was multijurisdictional, increasing Lemon
17 Grove's 1998 tonnage, decreasing it by 38 percent, from
18 22,000 to 30,529. Thus decreasing Lemon Grove's 1999
19 diversion rate from 33 percent down to seven percent.

20 Why is our situation truly exceptional? We are
21 aware that for the past ten years and until AB 75 takes
22 effect in 2002, what California municipalities had to
23 reduce their annual waste as mandated by 939 state agency
24 departments such as CalTrans have had to comply with
25 similar mandates.

1 And from my eleven personal years of experience
2 in solid waste and recycling for three major
3 municipalities, I can confidently state that in order for
4 a city to achieve its target diversion rate, it must
5 proactively form working relationships with its residents
6 and businesses, along with developing waste reduction and
7 recycling programs for state entities within its
8 jurisdiction, such as Cal State campuses, community
9 colleges, military, prison facilities, special use
10 districts and, of course, here today with Caltrans.

11 The City of Lemon Grove's situation is
12 exceptional because the city was given no opportunity to
13 form a relationship to Caltrans to manage or mitigate its
14 waste stream.

15 And with the 125/94 interchange project, I need
16 to acquaint you with the scope of this project, and
17 that's item number two on your handout. This project is
18 valued at \$275 million. It's a 5.2 mile alignment. It
19 has a construction initial of six freeway lanes, a flood
20 control facility, six overpasses with 47 columns that are
21 more than 120 feet high, a water pipeline that will
22 process and move 90 million gallons of water per day,
23 plus right of way for future capital and carpool lanes.

24 This is not a freeway grading project in open
25 space or I really wouldn't be here. This is a massive

1 redevelopment project, and in 1998 it was purely devoted
2 to demolition of existing infrastructure and vegetation.

3 Even by Caltrans' project's, this is an immense
4 project. Perhaps that's why it took me about six months
5 to verify the tonnage of the construction project, and
6 over one year to initiate a relationship with Caltrans,
7 to express to them their waste stream impact on our
8 community.

9 You see, they had no idea a sister state agency
10 was tracking the trash coming out of Lemon Grove, and
11 that the construction project was so negatively impacting
12 and separating our compliance with the state mandate.

13 Is this situation exceptional relative to other
14 California cities? Yes.

15 If the state came to Lemon Grove to locate and
16 construct a Cal State campus, my personal experience with
17 this is that both organizations meet extensively to
18 establish relationships that are necessary to become good
19 long-term neighbors. Including how to deal with mutual
20 issues such as construction, transportation, where to
21 locate a stadium or campus housing.

22 Why to mitigate the impact? This is not a case
23 of Caltrans. Caltrans enters a jurisdiction, and by this
24 jurisdiction they come in by a project by project basis,
25 and they move in and they move out. Their goals are to

1 build safe highways and byways for Californians. They
2 don't necessarily right now converse with the local
3 jurisdictions regarding the impact of their projects.

4 Yes, other California cities have had highway
5 projects, but I really challenge you to find one that has
6 had the impact that Lemon Grove is experiencing. If
7 Lemon Grove were larger, or the 125/94 project smaller, I
8 would concur with your staff's recommendation, accept it,
9 and not be here today.

10 However, Lemon Grove is only 3.8 square miles,
11 and the 125/94 interstate project is truly colossal. The
12 waste it generates increased our annual tonnage by 38
13 percent.

14 Why the situation is important? Meeting our 25
15 percent diversion rate through the nineties, and the
16 fifty percent mandate for 2000 is a priority for my
17 community. And I think with the attachment to your
18 agenda you can see all of our programs are in place.
19 Staff doesn't have a problem with us. We turn in our
20 reports on time. The '91 is lagging right now, and also
21 the '99, 2000, 2001 reports to you are going to be the
22 same scenario.

23 For ten years Lemon Grove has been recycling and
24 charging the residents and businesses \$180,000 per year
25 for recycling to comply with AB 939. Within our tiny

1 jurisdiction we have done more than our fair share of
2 siting regional facilities to facilitate recycling and
3 waste reduction. You don't hear "not in my backyard" in
4 Lemon Grove.

5 And item number three tells you that we have a
6 regional buy back center, two clean MRF's that process
7 300 tons per day, a regional solid waste transfer
8 terminal, regional collection sites for motor oil, and a
9 regional HHW collection and storage site.

10 And again, you have in your agenda packet the
11 items listed our programs.

12 CIWMB is recommending that Lemon Grove receive
13 an ND, a not determined diversion rate for '98. Please
14 understand that 8,511 tons generated by Caltrans was
15 quantified and certified by the County of San Diego. It
16 is determined. It is determinable.

17 An ND does not recognize my community's
18 commitment and investment to waste reduction, any more
19 than attributing Caltrans waste to the city in reducing
20 our waste diversion by seven percent.

21 Both options present no win scenarios for Lemon
22 Grove. We are a small municipality that must comply with
23 two state agencies whose requirements are unequivocally
24 at odds.

25 There is nothing on the books to prevent

1 CalTrans, a heavyweight state agency, from obliterating a
2 small fly rate, annual diversion rate like Lemon Grove's.

3 I realize that AB 75 is on the horizon for 2002,
4 however right here right now there is no bridge for the
5 crevice between AB 939 and AB 75. And Lemon Grove is
6 surely in this crevice for '98, '99, 2000 and 2001.

7 You are the Board and I really feel for my
8 community you're the only check and balance in the
9 process that can level the playing field between a
10 conscientious small municipality and two state agencies
11 who are at odds.

12 One state agency tells us to reduce our waste by
13 fifty percent by 2000; and a sister state agency delivers
14 a catastrophic 8,511 tons of unasked for an unwarranted
15 waste on us, because legislation does not require them to
16 use waste reduction methods that have been in place at
17 the municipal level for more than ten years.

18 Caltrans does do recycling, none, but what your
19 staff wasn't able to answer for you, they cannot quantify
20 how much was multijurisdictional; how much is La Mesa's;
21 how much is the county; and how much is Lemon Grove.

22 Lemon Grove is the smallest out of these
23 jurisdictions, and we've been hit with the full burden of
24 the waste stream for this project, for '98, '99, and
25 2000.

1 So I'm here today. And why it's important? The
2 state needs to be accountable and responsible for the
3 waste generated by Caltrans in Lemon Grove. The state
4 has never done it before, but today I've truly given you
5 the reasons to say yes. It does not make sense for Lemon
6 Grove to take an 8,511 hit from a state agency while
7 Lemon Grove has dedicated over ten years fiscally and
8 administratively implementing waste reduction programs
9 that comply with AB 939.

10 Lemon Grove cannot absorb an 8,511 ton hit for
11 '98 with a community only disposed of 22,000 tons. It is
12 not a two percent, five percent, or even a ten percent
13 hit, this is a 38 increase in a very tiny community.

14 I hope with your consideration you will be able
15 to send a positive message back to the Lemon Grove
16 community that local governments can work with state
17 agencies and right themselves.

18 I want to thank your local assistance staff,
19 Zane Poulson, Chris Schmidle, and I just recently met
20 Cara Morgan; they've been very kind over the last year
21 and a half. And it truly has taken us a year and a half
22 to get to you today. We filled out forms that we thought
23 would do one thing, and that didn't happen. It has taken
24 a year and a half for us to come to you today with this
25 issue.

1 '98 is not a compliance year. '99 is not. But
2 2000 is affected for us, and also 2001. This is probably
3 an issue that should have been taken care of a long time
4 ago in AB 939, and I think it's within your power that
5 you can fix this.

6 And Ramon Martinez is here from Caltrans if
7 you'd like to ask any questions regarding the magnitude
8 of the project in comparison to the jurisdictional size
9 of Lemon Grove. He can talk to you about the Lemon Grove
10 construction project. He is really not here to represent
11 Caltrans on a statewide basis or qualified probably to
12 answer your questions on AB 75.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you very
14 much. Any questions? Mr. Jones.

15 BOARD MEMBER JONES: Madam Chair, while I think
16 it is noble to come forward and say, "I don't want an
17 ND," let's just see where this thing's going to go.

18 In fact, state agencies like Caltrans and like
19 other state agencies do impact local governments, that's
20 why AB 75 was written, to make those state agencies work
21 and develop a plan within their own organization so that
22 they would not impact local governments.

23 But while Ed Burr is a good friend of mine, and
24 does a great job in Lemon Grove, it's not consistent with
25 state policy to ignore the fact that 8,000 tons went to

1 the landfill.

2 There are remedies. The remedies are SB 1066.

3 The remedies are base year so that they would be able to
4 show that so that you didn't get hurt.

5 But I think that I'm going to make the motion,
6 and I appreciate the frustration of having that there,
7 that project going through; but it isn't a goal year, and
8 I'm going to make the -- or I'm going to move the
9 resolution 2001-62 as long as it says --

10 I want to move 2001-62, consideration of staff
11 recommendation of the 97-98 biennial review findings for
12 the source reduction recycling element for the City of
13 Lemon Grove, which includes 20, 33 -- or wait a minute --
14 twenty something percent in '97, and a non-detect in '98,
15 and an ND in '98.

16 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
17 Jones.

18 BOARD MEMBER MEDINA: I would like to second
19 that, Madam Chair, since I was at Caltrans at the time
20 and I --

21 BOARD CHAIR MOULTON-PATTERSON: Thank you for
22 taking that responsibility. Okay.

23 We have a motion by Mr. Jones and a second by
24 Mr. Medina.

25 Please call the roll.

1 BOARD SECRETARY VILLA: Eaton.
2 BOARD MEMBER EATON: Aye.
3 BOARD SECRETARY VILLA: Jones.
4 BOARD MEMBER JONES: Aye.
5 BOARD SECRETARY VILLA: Medina.
6 BOARD MEMBER MEDINA: Aye.
7 BOARD SECRETARY VILLA: Paparian.
8 BOARD MEMBER PAPARIAN: Aye.
9 BOARD SECRETARY VILLA: Roberti.
10 (No response.)
11 BOARD SECRETARY VILLA: Moulton-Patterson.
12 BOARD CHAIR MOULTON-PATTERSON: Aye.
13 INTERIM EXECUTIVE DIRECTOR BRUCE: Madam Chair,
14 could we just clarify on that that it's 37 not 27?
15 BOARD MEMBER JONES: I'm sorry, 37. I was
16 digging for it, I had the writing and I couldn't make it
17 out. So 37 and an ND.
18 INTERIM EXECUTIVE DIRECTOR BRUCE: Thank you.
19 BOARD CHAIR MOULTON-PATTERSON: Thank you very
20 much. Okay. We're going onto item fifteen which is a
21 discussion of AB 75.
22 MR. SCHIAVO: Okay. Well, you pretty much said
23 it, Phil Morales, who is manager of the AB 75 program,
24 will be making that oral presentation.
25 BOARD CHAIR MOULTON-PATTERSON: Thank you.

1 MR. MORALEZ: Good afternoon, Madam Chair and
2 members of the Board. I will make my presentation brief,
3 it's been a long day, I know, for everyone, and I will do
4 a brief overview in terms of where we are for members of
5 the audience, and in terms of what AB 75 was all about,
6 and updating in terms of what we've been doing and where
7 we're planning to go.

8 First of all, for the record my name is Phil
9 Morales. I'm the branch manager for the State and Local
10 Assistance Branch.

11 And AB 75 was signed by the Governor on October
12 10th, 1999. And basically what it did was mandate state
13 agencies, large state facilities, CSU's, community
14 colleges, to submit an integrated waste management plan
15 to the Board by July 15th, 2000.

16 The purpose of the plan was to identify the
17 efforts they would make in terms of diversion, and how
18 they would reach 25 percent by January 1, 2002, and fifty
19 percent by January 1st, 2004.

20 In terms of the status of the plans, we also, I
21 also wanted to briefly note that in this process we were
22 able to do a couple of things.

23 One, we established workshops for the purposes
24 of educating state agencies. We had six workshops, and
25 those workshops involved over 400 people from,

1 representing different agencies.

2 We had a total of 436 plans that were submitted.
3 However that represented 499 state agencies and large
4 facilities. And how that works out is that many agencies
5 had multiple agencies on one plan. For example, the
6 Department of Consumer Affairs has several small boards
7 with staffs of five to fifteen people. They were
8 included in one plan, but they were also counted as one
9 agency.

10 The plans were divided into two categories.
11 There were modified plans, those with staff of less than
12 200 employees and generated less than a hundred tons
13 annually.

14 And the second were required to submit full
15 plans with figures in terms of what diversion they were
16 doing, again estimates because it was a plan, and also
17 what their projection were for programs implemented to
18 reach the mandates under AB 75.

19 It's interesting to note that, I understand at
20 the briefing and I apologize for not being there, I had
21 another matter to take care of; however, that there were
22 some questions regarding do the plans require contractors
23 for purposes of AB 75.

24 Please note that AB 75 requires a diversion of
25 waste generated at state agencies and focuses on those,

1 ensuring state agencies that they have diversion programs
2 at their facilities. So whether it be a part, whether it
3 be a state office building, it requires that they have
4 some programs in place.

5 Independent concessionaires or contractors have
6 not been considered as part of a state agency or facility
7 as defined under the law.

8 To the extent that food or other waste from
9 these concessionaires or businesses are discarded at a
10 state facility, that would have to be addressed within
11 the agency's plan to determine how that would be handled.

12 However, the plans have not required independent
13 concessionaires to implement separate diversion
14 programs. And that's something staff has been working
15 with many of the state agencies that have those programs
16 and has contract agreements with concessionaires, and
17 providing model language in which they would require
18 those facilities.

19 One of the examples has been the state fairs.
20 We worked with the California Expo in the last two years
21 to try to get them to implement in their language
22 recycling activities among the concessionaires at the
23 state fair activity that occurs in Sacramento annually.

24 I also wanted to point out that also that what
25 was required is that the number of plans that were

1 approved, for example, I've indicated we had 400, let me
2 go back to my number here, over 437 plans, we have
3 approved approximately 390 of them. Staff has reviewed
4 and approved them.

5 Some have already been approved by the Board.
6 As you know, the process provides we send 'em to the
7 Executive Officer, she submits those copies of what's
8 being considered, and Board staff have an opportunity to
9 provide comments or questions on any particular plan.

10 At this point we also have about twenty plans I
11 consider incomplete. We've notified state agencies that
12 they've not provided the data we need to do an honest
13 evaluation of their plan, or they haven't responded back
14 in terms of requesting that information.

15 And we have about 26 that are in final review.
16 And in that we still have some questions. A good example
17 of one we're still working with and working hand in hand
18 is the Department of General Services. That's a, it's a
19 monolith type agencies in terms of all the facilities
20 that it's responsible for, and so we're working with them
21 in evaluating their plan, the information. We're looking
22 at discussing with them contract language as relates to
23 lease facilities.

24 So staff has been working in a real positive
25 dialogue with them to try to get them to put a real hard

1 plan together and make some significant changes.

2 We also have a number of what we call
3 non-submittal. There are about 22 state agencies that
4 have just basically said, thank you but no thanks; and I
5 guess that's a nice way to put it; have not provided us
6 any plan whatsoever. We have sent them letters reminding
7 them of the requirements under AB 75. One of those
8 letters has been signed by our chair, and the result has
9 been no comment.

10 So what we're planning on doing is looking at
11 taking some further action that we'll bring forward to
12 the Board at the next board meeting in April.

13 I do want to point out a couple of things. For
14 your information, of the 347 full plans, just to give you
15 an idea of where diversion is at in the state facilities
16 based on the numbers we've received. Approximately 24
17 percent of these agencies are at 25 percent or less in
18 terms of their current diversion rate. Approximately 39
19 percent of these agencies are somewhere between 25 and 50
20 percent. And 37 percent we're estimating are over 50
21 percent diversion at this time. And there are a couple
22 that we've had serious questions where they've said
23 they're doing 80, 90 percent diversion, and we're going
24 like, time out, we need to get some more data from you.
25 And so we're in the process of reviewing those plans.

1 In the Southern California area, just since
2 we're here in Southern California, I thought you'd like
3 to know what some of the figures are in the plans we've
4 received.

5 For example, in the California Institution for
6 Men in Chino, and our state prisons tend to be large
7 generators of waste, their plan identifies a 48.8 percent
8 diversion rate.

9 The Ironwood State Prison in Blythe identifies a
10 58.9 percent diversion rate.

11 Chuckawalla State Valley Prison, 33.9.

12 The California Rehabilitation Center in Norco,
13 25.9.

14 The Central California Facility for women in
15 Chowchilla, 21.65.

16 And then if we go to some of the fairgrounds
17 here in the area, the 50th District Agricultural
18 Association, which is the Antelope Valley fair, 6.6
19 percent.

20 And the 54th District Agricultural Association
21 in Colorado River, which is the Colorado River county
22 fair in Blythe, at 38.4 percent.

23 So that kind of gives you an idea, and by the
24 way, I didn't realize we had Glendale Community College,
25 so as I was driving up this morning I called staff, and

1 the plan we have in place for the Glendale Community
2 College indicates a 27 percent diversion rate currently
3 going on.

4 So that's kind of where we're at in terms of
5 numbers with the plans. So what are we planning to do
6 next? Briefly, we do plan to bring to the Board in April
7 two items. We do have one plan from a state facility
8 that we're bringing forward to the Board for denial.

9 Essentially, just in a nutshell, they've given
10 us some figures and they say we're not going to implement
11 anymore programs, we're never going to reach 50 percent
12 and don't talk to us. So we said we can't approve the
13 plan, explaining to the Board why. So we're bringing
14 that item to you in April.

15 We're also bringing an item to you regarding the
16 22 non-submittals. And in that we'll provide some
17 recommendations in terms of options that the Board may
18 want staff to consider.

19 Please note that on AB 75 there is no monetary
20 hammer as there would be with state, with local
21 jurisdictions where we can impose a \$10,000 a day fine
22 for non-compliance.

23 Under AB 75 we don't have that kind of monetary
24 hammer, so we're going to be proposing some, hopefully
25 some administrative remedies to get these agencies to

1 comply.

2 We'll also be looking in around July and August
3 to bring forward any other plans that currently are
4 listed in the incomplete form that have not been
5 completed as disapprovals, if we haven't received the
6 information by that time.

7 Some of the other things that we're doing.
8 We're looking at, staff will be conducting an eighteen
9 month, kind of a planning session at the end of this
10 month to see where we go next in terms of identifying
11 which agencies we need to work with.

12 We've already had significant dialogue with
13 Caltrans. Caltrans has been very responsive to working
14 with us, to working with local communities, as you heard
15 from the last speaker. The dialogue between the Caltrans
16 contract person and the city has been a very good
17 dialogue, that's something we're trying to encourage.

18 We're working with headquarters in Caltrans in
19 looking at putting in the contract language, reporting
20 the amount of waste that's being diverted and collected
21 and where it's going. So Caltrans has been very
22 responsive to meeting with staff and to working with us
23 in finding out, being better stewards in the community so
24 to speak. So we're real pleased with that.

25 And our goal over the next eighteen months is to

1 spend more time in that area. Look at those state
2 agencies that are under 25 percent; look at the large
3 agencies that have an impact with local government in
4 developing a dialogue and a connection with them so
5 they've taken, work more cooperatively.

6 Lastly, I'd like to just note for the sake of my
7 staff is that they, there has been, there's about seven
8 people that have worked really hard. And I have to tell
9 you that reviewing more plans than we possibly thought we
10 would have.

11 We looked at 250 originally, we ended up with
12 close to over 400, and probably really closer to 500.
13 Staff worked every weekend since the first of November
14 with the exception of Thanksgiving, Christmas, and New
15 Year's overtime just to get what they could get done.
16 And I think it's a compliment to them that they would go
17 that far. And I would say they averaged between,
18 somewhere between ten and fifteen hours of overtime every
19 week. And they're almost there yet, but I'm really
20 pleased with the work they have done.

21 And we're looking at the database that we have
22 in place now. Hopefully in working with IMB we'll be
23 able to put that out on the Board Net so that anyone from
24 the public can access that and find out what a state
25 agency is doing and what they're not doing.

1 That concludes staff's presentation. I'm open
2 to any questions you might have.

3 BOARD CHAIR MOULTON-PATTERSON: Thank you. Any
4 questions for Mr. Morales?

5 Mr. Jones.

6 BOARD MEMBER JONES: Just a quick one. When you
7 come up with your discussion item next time and we talk
8 about what the alternatives are, it seems to me that
9 wouldn't the legislature and the Governor's office want
10 to know, especially prior to the budgets, who's complying
11 and who's not?

12 MR. MORALEZ: That's one of the alternatives
13 we're thinking of very strongly providing, a listing of
14 who'd done what, who hasn't done what, and having real
15 hard facts. I mean we have contacts when we send letters
16 out to them, there's no one out there that hasn't been
17 noticed what they're required to do. And we'll have that
18 information for you.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you. Mr.
20 Paparian.

21 BOARD MEMBER PAPARIAN: A couple things.

22 MS. MORGAN: Yes.

23 BOARD MEMBER PAPARIAN: As I recall, the Board
24 has signed off on about 60 or 70 plans, around that
25 neighborhood.

1 MR. MORALEZ: It's about 129 now. There's
2 another, I think there's about 129, and there's another
3 60 or 70 that are coming that the Board will be looking
4 at that's going to the executive officer.

5 BOARD MEMBER PAPARIAN: Because I haven't seen a
6 list since about October or November.

7 MR. MORALEZ: We'll be providing a full list. I
8 can provide one by the next Board meeting if you'd like
9 for informational purposes.

10 BOARD MEMBER PAPARIAN: Yeah, but just to be
11 sure that I'm clear, let's go with the 129 number.

12 MR. MORALEZ: Correct.

13 BOARD MEMBER PAPARIAN: Then we're going to be
14 seeing around 260 agencies that you're about to send
15 letters to that we can then pull for Board review if we
16 choose?

17 MR. MORALEZ: That's correct.

18 BOARD MEMBER PAPARIAN: And do you have any
19 idea, will that be in time so that we can add that to the
20 April item if we wanted to?

21 MR. MORALEZ: It will be difficult because the,
22 with the Baud system the cutoff for the April item is
23 next Friday, so we may have to do it, you know, in May,
24 depending on when those go forward. We can make whatever
25 effort we can.

1 BOARD MEMBER PAPARIAN: Okay. So we could be
2 discussing this in other meetings other than April and
3 July?

4 MR. MORALEZ: And I think it may be important
5 that we do that. We have so many of them that are in
6 different places. Some are incomplete, there we're
7 waiting for information. And of course depending on the
8 Board's guidance to staff in terms of what we do with the
9 non-submittals, I suspect we may be talking about them in
10 May as well.

11 BOARD MEMBER PAPARIAN: Okay. And then after
12 this year, agencies have to update their plans, is that
13 what you said?

14 MR. MORALEZ: What happens is that they have to
15 submit an annual report by 2002, April 1st of 2002 if I'm
16 not mistaken. And what we're doing is we're tracking the
17 annual reporting requirement for state agencies using the
18 same, we'll be tracking the same process that we use for
19 local governments under AR's. And we hope to be able to
20 use the same type of electronic forum.

21 The databasethat we have in place right now for
22 state agency parallels the PARRIS database that we
23 currently have for local government. So everything we're
24 trying to do with the agencies is either in place or
25 we're moving forward with local government so that they

1 move forward in a parallel fashion.

2 BOARD MEMBER PAPARIAN: Presumably you'll be
3 sending out additional materials related to filling out
4 the next annual report for April, 2002?

5 MR. MORALEZ: Correct.

6 BOARD MEMBER PAPARIAN: The existing materials
7 that were given to state agencies had essentially the
8 state agency version of the diversion study guide.

9 MR. MORALEZ: Correct.

10 BOARD MEMBER PAPARIAN: And I just want to make
11 sure that we're clear that if, if and when we deal with
12 the local government diversion study guide, that the
13 state agency diversion study guide be modified to be
14 fully consistent with the type of analysis, the type of
15 material that's in the local government guide.

16 MR. MORALEZ: We plan to do that. As a matter
17 of fact, when we get ready to go out with the reporting
18 requirements for the annual reports, that will come
19 before the Board for your consideration to make sure it
20 does, in fact, have that information that you're
21 requesting.

22 BOARD MEMBER PAPARIAN: Okay. And then the last
23 one I wanted to mention is this issue of contractors and
24 concessionaires and so forth. I'd like to maybe explore
25 that a little further. We can talk about that outside

1 this meeting, but what some of the potential might be to
2 assure that the we capture as much as is legally
3 appropriate in terms of what's being done at the
4 concessionaire's and contractors.

5 MR. MORALEZ: We'd be glad to do that. We have
6 developed some model contract language that the state
7 agencies have already been using, and we are working with
8 General Services on that, but we'd be glad to discuss
9 that further.

10 BOARD MEMBER PAPARIAN: Okay. And you can pass
11 along my, my thanks to the staff for all their hard
12 efforts in this area.

13 MR. MORALEZ: Okay. Thank you, I'll be glad to
14 do that.

15 BOARD CHAIR MOULTON-PATTERSON: Thank you.
16 Senator Roberti.

17 BOARD MEMBER ROBERTI: Madam Chair, first I want
18 to commend the speaker for a good program, and the time
19 has come for us to hopefully put other state agency's
20 feet to the fire because I guess the, well the most
21 common complaint we sometimes hear is that the state is
22 not doing what it is preaching for others to do.

23 On a related item, I would hope maybe that for
24 next month staff could come back and tell us what
25 programs could be put into effect to sort of recognize

1 facilities that have mass attendance to, that are
2 environmentally friendly.

3 Some of these are state agencies like the state
4 fair on a large scale, or on a smaller scale the Museum
5 of Science and Industry, these are just two that come to
6 mind.

7 And these mass attendance public facilities are
8 great places to educate the public as to the need for
9 environmental consciousness. They probably could sell,
10 as RAP award winners promote, their environmental
11 consciousness by the recognition that we give them. It
12 might even help the more sensitive ones to attract
13 business.

14 And I think that is something that we could do
15 to both educate and reduce waste by maybe having a
16 program similar to the RAP awards for mass attendance,
17 convention centers, state fairs, ballparks, things of
18 this nature. And it would be a way of both education and
19 conservation.

20 And in my little tours around the state, RAP
21 award winners really do promote their award in order to
22 attract clientele. It's a much bigger deal to them than
23 sometimes we think. And I think maybe we could do that
24 even on a grander scale where the public is even more
25 intimately involved.

1 So I would hope that maybe next month, if the
2 rest of the Board members don't object, staff comes up
3 with a program where somewhat in the line of what we do
4 on RAP, we come up with a program on mass attendance
5 facilities.

6 MR. MORALEZ: Senator, my oversight is that one
7 of the elements under AB 75 was to develop an awards or
8 recognition program for state agencies.

9 BOARD MEMBER ROBERTI: Right.

10 MR. MORALEZ: And it's called a Trash Cutters
11 program. My understanding that, it's not in my unit but
12 it's been working --

13 BOARD MEMBER ROBERTI: It's not what?

14 MR. MORALEZ: That program is not in my unit,
15 however we have been working with the office that is
16 working on it, and it's intended to come forward to the
17 Board next month, that awards program.

18 BOARD MEMBER ROBERTI: Well that would be
19 great. I'm thinking of expanding that I would say to all
20 mass attendance agencies, and maybe it could be somewhat
21 of the purview of trash guards or RAP. But people are
22 thrilled when they get recognition and then they promote
23 it.

24 MR. MORALEZ: And there's a little bit of
25 competitive spirit we've found when there's recognition

1 as well. So we're really encouraged. I've seen the
2 draft of that award program and I think it will be very
3 positive. And as a matter of fact, many state agencies
4 have said we've already been doing it, what do we get
5 recognized for? And so we're looking forward to using
6 that as an incentive as well as models for other agencies
7 to follow as well.

8 BOARD MEMBER ROBERTI: It would be great if a
9 convention center wouldn't dare promote business unless
10 they had the environmental seal of approval from this
11 Board because they'll be very fearful that that kind of
12 business is going to go somewhere else to somebody who's
13 got the seal of approval. So whatever then. Maybe next
14 month --

15 BOARD CHAIR MOULTON-PATTERSON: Thank you,
16 Senator.

17 BOARD MEMBER ROBERTI: -- along with trash
18 guards.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
20 Morales.

21 MR. MORALEZ: Thank you.

22 BOARD CHAIR MOULTON-PATTERSON: I don't see any
23 other questions, so we'll go on to our last item of the
24 day, item 16.

25 MR. SCHIAVO: Okay. Item 16 is an oral

1 presentation regarding the status of the diversion study
2 guide. This is going to be a co-presentation with
3 Catherine Cardoza and Tabetha Willmon.

4 And we did give each of you a, there should be a
5 handout of the presentation notes or an outline of the
6 presentation, and I believe Deborah was handing those
7 out.

8 And we're going to go ahead and begin the
9 presentation on page four, so if you'd like to follow
10 along that will begin on page four. So Catherine will go
11 ahead and initiate the presentation.

12 MS. CARDOZA: Good afternoon, Madam Chair, Board
13 members. At the September, 2000 Board meeting the Board
14 directed staff to conduct a workshop to address the
15 issues involved with establishing new base years;
16 specifically, the process methodology and the content of
17 new base year studies submitted to the Board.

18 These issues were discussed in a November 8th
19 workshop, and as a result the Board directed staff to
20 create a working group to look at the issues and concerns
21 more closely.

22 The working group included consultants who've
23 had experience conducting generation studies for cities
24 and counties, statisticians, Board members, and Board
25 staff.

1 The working group has met four times since
2 December of 2000 to discuss the issues surrounding new
3 base years, and to provide suggestions for improving the
4 diversion study guide.

5 The working group has addressed three main
6 issues related to new base year studies.

7 Specifically, concerns with using extrapolation
8 to measure diversion; the challenges involved with
9 quantifying source reduction; and the need for improving
10 the clarity of new base year information being provided
11 by jurisdictions in a new base year request.

12 The first issue discussed by the work group was
13 the extrapolation method. The group discussed three
14 areas of concern related to the methodology, including
15 sampling methods used; the survey process for collecting
16 data; and the extrapolation process itself.

17 The second issue discussed were the challenges
18 jurisdictions face in quantifying source reduction
19 activities. Because source reduction does not involve
20 tangible materials that can be weighed, measuring what is
21 not being disposed is inherently less precise and
22 requires some kind of estimation, leading to the question
23 of how source reduction activities should be quantified.

24 Adding to the challenge of how to measure source
25 reduction is the question of what activities should be

1 counted. And you'll see in the handout just a few
2 examples of the types of activities AB 939 have been
3 counted in past studies. Many questions have been raised
4 regarding what kinds of activities AB 939 intended to be
5 counted.

6 For example, should waste from food processing
7 plants used as animal feed, or the use of pallets and
8 crates be counted as source reduction activities.

9 One of the challenges with source reduction is
10 the potentially infinite number of activities that could
11 be counted based on the current broad statutory
12 definition of source reduction.

13 The third main issue addressed by the working
14 group dealt with ways to improve the clarity of new base
15 year information provided by jurisdictions requesting new
16 base years.

17 The concerns raised regarding new base year
18 studies include the validity of the data being
19 submitted. For example, very high source reduction
20 amounts that result from using extrapolation.

21 Also, the clarity of the data being submitted.
22 For example, the need for a better description of the
23 diversion activity, both the program and material types
24 being quantified, and the problem that artificially high
25 diversion rates can lead to jurisdictions eliminating

1 diversion programs.

2 And now Tabetha Willmon will present an analysis
3 of new base years, the issues raised, and options related
4 to the issues discussed.

5 MS. WILLMON: To date the Board has approved 80
6 new base years. Of these new base years, 21
7 jurisdictions used an extrapolation methodology to
8 estimate their diversion activity, the remaining 59
9 jurisdictions did not use extrapolation.

10 Staff has completed an analysis of the new base
11 years that have been approved to date. In comparing
12 those base years that used extrapolation to those that
13 did not, those jurisdictions using extrapolation have an
14 average diversion rate of 53 percent, as were those that
15 did not have an average diversion rate of 41 percent.

16 On average, base years with extrapolation were
17 approximately 21 percent higher than those without
18 extrapolation. The average pounds per person per day
19 generation for those jurisdictions that used
20 extrapolation is 18.78, whereas those that did not were
21 more consistent with the statewide average and had an
22 average pounds per person per day of 10.54.

23 Overall base years with extrapolation were
24 approximately 79 percent higher than those without.

25 Finally, jurisdictions that used extrapolation

1 have an average source reduction rate of twenty percent,
2 while those that did not use extrapolation have an
3 average source reduction rate less than five percent.
4 This represents a difference of over 300 percent.

5 In Southern California the number of
6 jurisdictions that used extrapolation is fairly
7 equivalent to those that did not, so we're going to take
8 a closer look at the comparison.

9 Those jurisdictions using extrapolation, which
10 there are 21, had an average diversion rate of 53
11 percent, an average pounds per person per day of 18.78,
12 and an average source reduction rate of 19.8.

13 Those jurisdictions that did not use
14 extrapolation, of which there are 23, have an average
15 diversion rate of 41 percent; an average pounds per
16 person per day of 10.63; again which is consistent with
17 the statewide average; and an average source reduction
18 rate of 4.4 percent.

19 The Southern California base years without
20 extrapolation are consistent with other non-extrapolation
21 new base years throughout the state. As a result of
22 public input as well as discussions from the diversion
23 study guide working group, several modifications to the
24 diversion study guide have been made. These include a
25 more detailed description of the sampling methodologies

1 used to determine the types and quantity of the material
2 being diverted; additional tools that may be used to
3 determine the appropriate number of samples; and also the
4 development of statistical guidelines for addressing
5 outliers within the population sampled.

6 Another proposed modification to the diversion
7 study guide is that when quantifying source reduction,
8 the focus should be on disposal based quantification,
9 that is reducing the amount of material that would
10 actually go to disposal.

11 In doing so, the surveyor should count the
12 incremental difference of material being diverted versus
13 looking at it in perpetuity. The surveyor should ask
14 followup questions to determine that the source reduction
15 activity resulted in a decrease in waste generated. The
16 surveyor should also adequately document the diversion,
17 and how the diversion was calculated, including any
18 diversion factors.

19 The working group also discussed that by
20 utilizing the more detailed base year modification
21 certification form, a better explanation would be
22 provided to the Board regarding how the source reduction
23 activities were captured.

24 In a response to various input, several
25 adjustments to the base year certification form have been

1 made. These include the development of separate forms
2 for new base years with and without extrapolation as part
3 of the methodology.

4 The form for base years using extrapolation
5 requires additional details relating to the methodology.
6 Also, more detailed identification of types of programs
7 and material types that are quantified as well as the
8 associated tonnages.

9 These include the methods used to quantify the
10 activity, and the relation of that activity to the total
11 diversion. In addition, the modified form includes a
12 detailed identification of the non-residential sector
13 that was surveyed.

14 In order to get feedback on this modified form,
15 members of the working group as well as others, tested
16 the revised certification form. On average it took about
17 two to six hours to complete the form. In comparison, it
18 takes upward of 200 plus hours to complete a new base
19 year study as compared to the minimal amount of time it
20 would take to complete the new base year certification
21 form.

22 The modified base year certification form should
23 provide many benefits to all parties involved in the new
24 base year development and approval process.

25 It will help jurisdictions to organize data

1 submitted, as well as provide them with a tool to
2 evaluate their program implementation.

3 It would also assist Board staff in their
4 evaluation of how program implementation relates to the
5 new diversion rate.

6 Finally, it improves the clarity of information
7 presented to the Board for consideration of approval of
8 the new base year by increasing the level of detail on
9 extrapolation methods, and also how diversion activities
10 were quantified.

11 Aside from the proposed modifications to the
12 diversion study guide, here are some additional options
13 relating to extrapolation that may be considered.

14 One is the elimination of the use of
15 extrapolation in quantifying non-residential diversion
16 activities.

17 This option would address the concerns regarding
18 extrapolation artificially driving diversion higher.
19 However, studies for larger jurisdictions would be more
20 costly. Also, some jurisdictions are already in the
21 process of performing new base year studies using the
22 extrapolation methodology. And jurisdictions, some of
23 which were put on compliance, have already submitted
24 studies that utilize the extrapolation methodology.

25 The second option relating to extrapolation

1 would be to increase the confidence level for selecting
2 samples to a 95 percent confidence level.

3 The advantage is that this would reduce the
4 potential for error in sampling.

5 The disadvantage is that new base year studies
6 would cost more, as additional surveys would be
7 required.

8 A third option relating to extrapolation would
9 be to allow extrapolation and increase the detail that
10 jurisdictions must provide to the Board by approving the
11 revised base year modification certification form.

12 This would provide staff and the Board more
13 information with which to evaluate the proposed new base
14 year. Although it would increase the time that a
15 jurisdiction may need for preparing the certification
16 form, it is a small amount of time compared to that
17 required to do a new base year study.

18 Additional options for consideration that relate
19 to source reduction would be to set a cap on the amount
20 of source reduction that can be claimed. This would
21 ensure that other program implementation activities would
22 be emphasized, and that artificially high source
23 reduction diversion activities would be eliminated from
24 the diversion rate.

25 However, source reduction is the top of the

1 waste management hierarchy, and while it is highly
2 promoted to the Board, incentives for jurisdictions to
3 implement source reduction activities may be reduced.

4 The second option relating to source reduction
5 is that if source reduction is over five percent of the
6 total generation, then the jurisdiction will have to
7 explain why in greater detail. In other words, how the
8 activity was quantified, and how the activity resulted in
9 decreased disposal. This would provide a greater level
10 of detail for staff and the Board to evaluate the
11 programs without eliminating the incentive to promote
12 source reduction.

13 However, the jurisdiction would have to expend
14 additional time and possibly resources to supply the
15 additional detailed information.

16 Regardless of the options the Board may choose
17 to direct staff, it is apparent that because of the
18 distinctiveness of each jurisdiction's makeup and waste
19 stream, many new base years will be unique in nature.
20 For this reason, the most effective Board staff
21 evaluation will need to be made on a case by case basis
22 with diversion numbers being compared to program
23 implementation efforts.

24 The revised certification form will assist in
25 the evaluation of these new base years and will

1 ultimately improve the clarity of information necessary
2 for the Board to effectively consider each of these
3 studies.

4 This concludes our presentation, and we'd like
5 to take this time to open the floor for discussion of the
6 diversion study guide and to address your questions.

7 BOARD CHAIR MOULTON-PATTERSON: Thank you. We
8 have number of speakers that have been waiting all day so
9 we're going to go ahead with those unless Board members
10 have any questions right now. I would ask that the
11 speakers, if you could be brief since we have quite a
12 few.

13 Rick Best will start, followed by Karen Coca.

14 MR. BEST: Thank you, Chairwoman
15 Moulton-Patterson and Board members. My name is Rick
16 Best, the policy director with Californians Against
17 Waste, and I appreciate the opportunity to speak here
18 today on this issue.

19 I certainly want to begin by thanking staff for
20 convening these working groups. I think there's been an
21 outstanding effort by staff to respond to all of the
22 issues that have been raised, and we certainly appreciate
23 that opportunity to provide input, and look forward to
24 the continued development of this guide and ultimate
25 conclusion of this issue.

1 Just as an initial statement, I do want to
2 recognize, I know a number of local governments people
3 are here, I certainly want to recognize the need for
4 these revised base year studies. We certainly recognize
5 a number of jurisdictions have problematic base years,
6 and we certainly recognize the need for doing so; but
7 nevertheless, we believe it's important that the Board
8 sets forth some very clear policies as to how these
9 diversion study guides will ultimately be considered and
10 approved by the Board.

11 We issued comments to the Board members on
12 February 26th, and I won't go through in detail all of
13 the issues that we've raised, but I want to focus on a
14 couple of key issues today.

15 Number one is that we recognize that the guide
16 is written essentially as kind of a tool, an information
17 source for local governments, and it's not intended, at
18 least based upon the response by the legal office during
19 one of the meetings, as necessarily setting forth policy.
20 It was recognized that this as an information source and
21 that if it was setting direct policy that that would
22 raise a number of procedural concerns with regards to
23 ultimately adopting this guide.

24 With that in mind, we believe that there are
25 some issues that have been raised as part of this guide

1 that we believe there does need to be some clear policy
2 direction by the Board. And I will go into detail on
3 some of those issues.

4 But I just think it's appropriate that when it
5 comes to the Board in the next couple of months to
6 approve this guide, that there should be a separate
7 document or policy statement that's issued by the Board
8 to establish clarification on some of these issues.

9 The first issue that we want to raise in terms
10 of specifically that we think ought to be addressed in
11 that policy document is the simple issue of to what
12 extent large businesses are excluded from the
13 extrapolation methodology.

14 As we indicated in our staff presentation before
15 the Board a couple of months ago, in the City of Oxnard,
16 there was clear evidence that a single business paper
17 mill was constituting upwards of over fifty percent of
18 the diversion of the survey population, and that
19 diversion was extrapolated city-wide. And so we think
20 that's, that was an entirely inappropriate approach for
21 extrapolating diversion tonnages. And we believe that
22 that's an example where there should have been a
23 limitation, that that business should not have been
24 extrapolated for the whole jurisdiction.

25 So we would urge that the Board actually adopt a

1 clear policy that says no business greater, may represent
2 more than five percent of the surveyed population in
3 order to be extrapolated. So that would be the first
4 policy issue that we think should be part of the
5 statement.

6 The second issue is a clear statement
7 restricting or prohibiting double counting, ensuring that
8 local governments make the appropriate clarifications and
9 understanding of the numbers, making sure there isn't
10 double counting going on between the survey process and
11 the quantification of diversion at specific facilities.

12 Third, that we believe there should be a clear
13 policy statement. I think the Board has stated this a
14 number of times, but I think it should be part of this
15 document that the Board reaffirms its commitment when
16 evaluating compliance with 939 to look at both the
17 diversion figures but also program implementation.

18 That simply quantifying, showing that you have
19 achieved this fifty percent diversion rate without
20 demonstrating the clear implementation of programs will
21 not be sufficient for demonstrating compliance.

22 The next issue that I think is a very large one
23 and it was identified by the staff in their presentation
24 earlier, is the whole issue of extrapolation. And we
25 certainly recognize that there is some need and some

1 value in having extrapolation, particularly for large
2 cities where it would be difficult to quantify all the
3 diversion that's going on, but we believe that the
4 extrapolation methodologies that are laid out in the
5 guide are really inadequate; that the number of samples,
6 particularly for a city, you know, the size of L.A. which
7 would essentially only be required to have, I think,
8 something like 270 samples, is by no means sufficient to
9 really truly represent what's going on in the city.

10 And in particular, particularly for these larger
11 jurisdictions, there needs to be some effort to try and
12 stratify amongst the different types of businesses, that
13 there should be some recognition that using the SIC codes
14 to try and segregate out specific types of businesses so
15 that the diversion amongst those businesses is
16 extrapolated separately.

17 The next issue that we think needs to be
18 incorporated is a clear statement that for diversion
19 facilities like thrift stores, reuse markets, that kind
20 of thing, that those businesses and those programs must
21 demonstrate that the material counted for diversion does,
22 in fact, come from the jurisdiction.

23 In many cases these thrift stores and other
24 businesses attract material from the region, and not just
25 from the specific jurisdiction they're located in. So

1 there needs to be a clear policy that the material needs
2 to be coming from the jurisdiction.

3 And the next issue that we believe should be
4 addressed is the issue of non-respondents. The guide
5 acknowledges that there is oftentimes anywhere from 20 to
6 80 percent of the surveyed population that may not
7 actually respond, and it's unclear based upon the guide
8 that, what the policy is. And we believe that if there
9 isn't a, a response from the business, then it should be
10 counted, the disposal amount should be counted and
11 assumed that there is no diversion.

12 If you simply eliminate those surveyed
13 businesses from the calculation completely, then you're
14 going to artificially inflate the overall diversion rate
15 of the surveyed population.

16 The last issue that I just wanted to address is
17 the issue of pallets. And I don't want to get into a
18 lengthy discussion of that, but we believe that there
19 does need to be a clear policy in the regards to source
20 reduction that there's been a demonstration that there
21 has been a net reduction in disposal.

22 And we believe that the guide, and in our
23 discussions in the working group, basically said that
24 there should be a determination of what the, basically
25 the life cycle of pallets and other reuse materials is,

1 and that the, the diversion quantification should be only
2 allocated based upon the life cycle of that product.

3 So for example, if 25,000 pallets were being
4 used and the life expectancy is 25 uses, then there
5 should only be a diversion credit of a thousand pallets.

6 We think that would be an appropriate policy.
7 It would mitigate what we believe is probably grossest
8 exaggeration of diversion rates based upon the diversion
9 study guides that we've reviewed thus far.

10 So with that, those are our primary issues. We
11 believe that there should be some very clear policy
12 direction so that local governments are very clear in
13 terms of what the policies are of the Board in regards to
14 those.

15 I think a lot of the issues that have been, that
16 we've raised are properly addressed in the guide, but we
17 think a separate policy statement to clearly identify
18 those so that the local governments know what the policy
19 of the Board is is needed to, to kind of basically make
20 sure that it's a clear policy of the Board.

21 And with that, I appreciate the opportunity to
22 provide comments.

23 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
24 Best. We will be taking a five minute break right now.

25 (Thereupon there was a brief recess.)

1 BOARD CHAIR MOULTON-PATTERSON: Okay. I'd like
2 to call the meeting back to order.

3 Ex-parte, Mr. Eaton.

4 BOARD MEMBER JONES: Quick hello to Mike
5 Mohajer.

6 BOARD CHAIR MOULTON-PATTERSON: Thank you. Mr.
7 Jones, ex-parte.

8 BOARD MEMBER JONES: None.

9 BOARD CHAIR MOULTON-PATTERSON: Mr. Medina.

10 BOARD MEMBER MEDINA: None.

11 BOARD CHAIR MOULTON-PATTERSON: Mr. Paparian.

12 BOARD MEMBER PAPARIAN: None.

13 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti.

14 BOARD MEMBER ROBERTI: None.

15 BOARD CHAIR MOULTON-PATTERSON: And I have none.

16 Okay. Next speaker is Karen Coca, and followed
17 by Joan Edwards.

18 MS. COCA: Well good afternoon. My name is
19 Karen Coca with the City of Los Angeles. I'm the
20 relatively new AB 939 program manager, and I promise to
21 be very brief.

22 I think we're pretty much covered no matter how
23 we do our diversion study guide. We are doing
24 approximately 1,500 waste samples and waste
25 characterization stratified by SIC code similar to the

1 way the state did their database, so I think we are
2 pretty much covered for any possible eventuality as far
3 as what happens in the study guide.

4 I wanted to address today kind of the options
5 and the issues and kind of give the city's viewpoint very
6 briefly.

7 Issue one, the extrapolation methodology, that
8 one should be obvious. We, of course, support the use of
9 extrapolation because we wouldn't be able to do a study
10 without it. It would be not only cost prohibitive, but
11 almost impossible with 140,000 businesses.

12 We would support having to have sufficient
13 information. So option three, the increase the detail, I
14 think that that would be fair. But to allow the
15 extrapolation and just give a sufficient level of detail
16 for that.

17 Issue two. Concerns with source reduction
18 quantification. I do understand and I've been fully
19 briefed on the reasons for those concerns. I think they
20 need to be dealt with on a case by case basis however. I
21 do not believe that there should be a set cap. I think
22 that the variation is realistic, and as long as it is
23 reasonably quantified and backed up by data, then it
24 should be allowed. So that goes to option one and option
25 two. Although I do understand the issue here.

1 And then as far as clarity, we do understand
2 that providing more information cost more money. We're
3 doing our diversion study this year to help us plan to
4 get to the 70 percent goal which was recently reaffirmed
5 by our mayor, and we're paying about a million and a half
6 dollars for people to go out and do waste
7 characterizations, do surveys. We've done 522 waste
8 audits so far. We'll probably do about another fifty to
9 gather all of that information for the City of Los
10 Angeles.

11 So I understand for smaller jurisdictions
12 particularly that it would be very difficult. One thing
13 I wanted to offer up before I finish is that the city has
14 done several of the studies that you've talked about that
15 are not in the diversion study guide. We're going to do
16 another grasscycling one to quantify the grasscycling
17 issue.

18 I was wondering if that would be appropriate if
19 we developed those studies for the City of Los Angeles if
20 other jurisdictions in Southern California would be
21 allowed to use that just as a, so that they wouldn't have
22 to go out and develop the data for every single
23 jurisdiction, maybe that would be helpful.

24 And that's all I have to say. Thank you.

25 BOARD CHAIR MOULTON-PATTERSON: Thank you very

1 much for staying. Joan Edwards followed by Michelle
2 Leonard.

3 MS. EDWARDS: My name is Joan Edwards of J.
4 Edwards and Associates. I was a member of the working
5 group that has been mentioned that looked over these
6 issues.

7 I do not, as a consultant, participate in
8 studies such as those covered by the diversion guide, but
9 I'm quite familiar with them both from my previous
10 experience with Los Angeles, and because I've monitored
11 them over the past few years.

12 I want to basically touch on three issues. I've
13 already participated in the group, I've submitted written
14 comments, if you have questions today or in the future
15 I'd be happy to answer them.

16 The first is that I really want to thank very
17 much Board staff and the Board members that participated
18 in this group. I only wish that it could have happened
19 two years ago. There really is a limit to what we could
20 accomplish in the group because the horse is basically
21 out of the barn. I don't, even I who am one of the
22 biggest critics of this methodology, would never suggest
23 that we just toss it out at this late stage in March,
24 2001. So I really believe that staff and Board made a
25 big effort to take some really divergent views,

1 tremendously divergent views and come up with some
2 compromises that would at least make these reports better
3 in the near term, and I hope open the way to develop
4 alternative methods in the future. So it is greatly
5 appreciated.

6 That's not to say, as I said, that I agree with
7 the math in these methodologies, nor what I believe is
8 the tendency to encourage cities in the statewide,
9 statewide, as a matter of fact, to roll their diversion
10 by counting things that we never planned on counting in
11 1990.

12 What I'd like to focus on as my third comment is
13 the issue of more staff analysis to be submitted in
14 advance of problems to the Board for their consideration
15 as they develop policies.

16 For example, and this was one of my big comments
17 for the diversion guide. I think staff should be looking
18 at what makes up these numbers and preparing more
19 analyses for Board to consider, similar to what they did
20 in December where they laid out certain cities and where
21 the diversion was coming from.

22 For example, and this touches, I know, on some
23 touchy issues, but of the city's diversion, what percent
24 is really new since 1992? To what extent can we quantify
25 that? And to what extent is it something that we've

1 always been doing and, therefore, represents no real
2 growth in recycling statewide or locally since 1990?
3 What percentage of diversion comes from ADC.

4 And I'm not necessarily pro or con ADC, because
5 we all have our positions, I'll just state that, but it
6 helps if you think about ADC in a new light as you
7 grapple with that issue in the next year as I'm sure
8 you're going to.

9 What are source separated inerts? They were
10 source separated and didn't go to landfills pre-1990,
11 they're source separated and don't go to landfills now.
12 Some cities counted them in 1990, some didn't, some
13 didn't and then changed their minds in '95 when they said
14 ooh, this is a good way to get to fifty percent.

15 What, percentage comes from source reduction? I
16 personally do believe there should be a cap on where we
17 want to go policy wise in this area. After all,
18 California counts diversion differently than almost every
19 other state in the country. And so our fifty percent is
20 probably somebody else's 35 or 40 percent.

21 The reason I think this is so important is
22 because I think there are going to be lots of policy
23 discussions as well as reviews of new base years over the
24 next year or two. And it will help us all get a better
25 handle on what's really going on out there and what might

1 we want to create for the son of 939 when it comes.

2 I also think that it is an approach that the
3 Board has not utilized in the past for many other
4 issues. I'm really not familiar with the agenda item
5 about surveying mine reclamation facilities, but I will
6 tell you I am absolutely convinced that the Board would
7 have reached consensus and had a vote on the C&D regs a
8 year and a half ago if, up front, the staff had discussed
9 in a good analysis how many sites are there, when is an
10 inert really an inert, and what are the practices out
11 there.

12 RAP programs. I think they're, it's great to
13 have the RAP awards. And I do think this is connected to
14 the diversion study guide, they're great awards. But
15 it's an award that doesn't really have too much set
16 criteria. So a high percentage of your RAP awards go to
17 facilities that have less than ten percent diversion,
18 because that's not a primary criteria, high diversion,
19 forgetting the RAP award.

20 The putrescibles permit issue, I wasn't here
21 when you discussed it. But whether or not it was
22 appropriate to vote the way you did, it would have been
23 helpful to know more about who would have been affected.
24 State agencies similarly.

25 I sort of feel, this is one of the few times I

1 disagree with Board member Jones, you allow the 8,000
2 tons that went to disposal, what about the 89 percent
3 that was recycled which is probably almost all rock and
4 dirt and would make that city's recycling goal like that
5 if you could quantify both.

6 So these are the kind of analyses I would like
7 to see in the future and would help bring us all to
8 consensus more quickly.

9 MS. LEONARD: Madam Chair, members of the Board,
10 my name is Michelle Leonard with SCS Engineers. I was a
11 member of the working group, and I'd like to thank you
12 for the opportunity to serve on that working group. I
13 felt it was a very useful process and enjoyed the open
14 dialogue and the format of those meetings.

15 I'm here today representing a number of Southern
16 California municipalities who are either presently on
17 compliance orders or who have completed their compliance
18 orders with new base years who are presently undertaking
19 new base years.

20 And I think one of the things they all share in
21 common is a concern that, you know, the methodologies may
22 change again, or the fact that we still don't have a
23 standard methodology.

24 As a result of the, my participation in the
25 working group, I am satisfied with the revised proposed

1 diversion study guide and with the certification forms.
2 We spent a lot of time going over every page and
3 practically every line of those certification forms; and
4 many of us in the group also took the time to actually
5 use some real data and fill out those forms. And we had
6 a variety of experiences with those which we shared, and
7 then further revised those certification forms.

8 There's just a few items that I'd like to touch
9 on today. Some of the other people have already, so I
10 won't go into too much detail. But we certainly support
11 the use of extrapolation. Again, to not use
12 extrapolation would prohibit many of the cities from
13 adopting new base years or even conducting more accurate
14 generation studies.

15 One of the issues in terms of the confidence
16 level we discussed quite a bit at the working group, and
17 we were very satisfied with the 90 percent confidence
18 level, and so we'd like to see that, at least I would
19 like to see that remain in the diversion study guide.

20 Probably my main concern is on source
21 reduction. And I'd certainly disagree with setting any
22 kind of cap on source reduction. In the agenda item
23 there was a reference to the 11 percent national average
24 and also a, a suggestion as far as setting the cap at
25 five percent. The five percent seems to be arbitrary,

1 and even the 11 percent.

2 Again, I go back to the hierarchy of AB 939
3 which, as we know, the highest level is on source
4 reduction. And my feeling is if we put a cap on it we
5 almost discourage any further efforts in source reduction
6 efforts.

7 And finally, I was very pleased to see that
8 we're encouraging going back and looking at city's
9 generation studies, new base years on a case by case
10 basis. I've always felt that that was very important
11 because the cities, the jurisdictions in this state are
12 so diverse and so different. We go from the City of Los
13 Angeles to, you know, a major metropolitan area to major
14 small rural areas, and obviously they have different
15 circumstances and different information.

16 So I hope that the staff will continue to look
17 at each city on a case by case basis. And I believe that
18 the new certification form enables the staff to review
19 the information, it enables the jurisdictions to submit
20 their information in a more streamlined manner, and in a
21 manner that the staff can review it, and reduce the
22 amount of back and forth between cities and staff, and
23 really have the information up front and enable you to
24 make a decision on the generation study.

25 And with that, I'll conclude my remarks.

1 BOARD CHAIR MOULTON-PATTERSON: Thank you, Ms.
2 Leonard.

3 BOARD MEMBER JONES: Madam. Chair.

4 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

5 BOARD MEMBER JONES: Just a couple of questions
6 for Michelle. The use of extrapolation obviously, I mean
7 mathematical delineation of something as an extrapolation
8 or some form of it, but when we see extrapolation numbers
9 at 18.58 pounds per person per day in a jurisdiction,
10 which is a, an indicator; do you think that the cert form
11 when you do use extrapolation, has enough detail in it so
12 that you can explain how that pounds per person per day
13 is so much higher than any average?

14 MS. LEONARD: Well I think that all the
15 information has to be looked at, not just individually
16 the pounds per person per day or the extrapolation. I
17 mean I think they're all various indicators.

18 But pounds per person per day can be somewhat
19 misconstrued, because if you've got a city with a very
20 large economic base and a small population, those factors
21 can skew your pounds per person per day. So I think all
22 of the --

23 BOARD MEMBER JONES: Wouldn't that be part of
24 the explanation?

25 MS. LEONARD: Exactly. So I think all of those

1 factors have to be taken into account, and I think that
2 the new certification form, though it's lengthy and very
3 detailed, would provide that, you know, big picture to
4 the staff members and the Board.

5 BOARD MEMBER JONES: And same thing on the
6 source reduction issues. If we didn't, if we looked at a
7 trigger, a number that triggered a more extensive
8 description of how that source reduction was quantified,
9 does that make sense?

10 MS. LEONARD: Right. But again I think that by
11 setting a five level you're, it's somewhat redundant,
12 because I think the form as it is now you're already
13 providing enough information to explain where your source
14 reduction is. It calculates the source reduction by
15 program, by material type, so I think it gives you enough
16 information without having to provide, you know, even
17 more or additional detail at some arbitrary five percent
18 cap.

19 BOARD CHAIR MOULTON-PATTERSON: Thank you. Mike
20 Mohajer followed by Sandra Lee.

21 MR. MOHAJER: Madam Chair, members of the Board,
22 my name is Mike Mohajer, and I'm here to represent the
23 Waste Management Task Force.

24 As you know councilmember Ginger Bremberg, she
25 was going to be presenting this item, but because of the

1 council meeting so she had to leave and she asked me to
2 read a letter that I just handed out a few minutes ago
3 into the records.

4 And so the letter is addressed to Madam Chair
5 and then it reads:

6 "On behalf of the Los Angeles County
7 Integrated Waste Management Task Force, I want
8 to thank you for the opportunity to comment on
9 the proposed diversion study guide.

10 "As you know, the development of the guide
11 is being closely followed by local government
12 because of the significant public policy and
13 fiscal implications.

14 "Due to the extensive revision made in the
15 latest draft of the guide, which had made it
16 more substantial in scope and complexity, we
17 have yet to complete a full and complete
18 analysis of the guide at this time.

19 "However, a preliminary review reveals that,
20 in general, the changes in the revised guide and
21 the companion form will require significantly
22 higher level of field and office accounting, and
23 documentation to a much greater level of details
24 from jurisdictions. In other words, the
25 emphasis seems to be more on bean counting.

1 "Consequently, it appears that the revised
2 guide in its current form will require
3 jurisdictions to spend more of their limited
4 resources on bean counting activities and
5 hampering their efforts to help with waste
6 diversion programs. This would be contrary to
7 spirit and intent of state law AB 939.

8 "We recommend that prior to the adoption of
9 the revised guide, the Waste Board forward in,
10 forward it to all local government in this state
11 for their review and comment.

12 "Subsequently, to assist local government in
13 the state in understanding the revised guide,
14 the Waste Board should conduct workshop to
15 educate local governments as to the intent,
16 content, and use of the guide.

17 "At the conclusion of the workshops we also
18 recommend that the Waste Board open the 30 to 45
19 day public comment period to accommodate input
20 from cities and counties to this very important
21 document. And local government in this process
22 is crucial while they make up the sole regulated
23 community that must ultimately pay the bills for
24 complying with Waste Board requirements.

25 "In the past the task force urged the Waste

1 Board include local government representation on
2 the diversion study guide working group to no
3 avail. The recommended action will provide the
4 Waste Board an avenue to mitigate this critical
5 deficiency by making the process more inclusive
6 of local government.

7 "We thank you for your consideration of this
8 matter.

9 A couple of other items that I also would like
10 to mention as far as a participation by the local
11 government. Again, as I said, there were none whatsoever
12 at the working group. We specifically have forwarded to
13 your Board several letters identifying that there's a
14 need for local government to be represented at that
15 working group; again, no action.

16 Today I was looking also to look at the
17 presentation of the staff as far as the whole working
18 task force thing several times at the back table, and
19 finally I was able to pick up the handout about 4:20 --
20 well the last time I checked it was 4:20 in the afternoon
21 and it was put on the table back there sometimes after
22 that time.

23 A couple other things that I also, in addition I
24 need to mention is that the staff report refers to public
25 input. And again, there were no local government input.

1 A reference to the staff report mentioning that
2 11 percent of the national average, as far as the source
3 reduction is concerned, be forwarded in a letter to the
4 Waste Board as to the identity of the 11 percent. There
5 was only one time, it was conducted by the EPA in 1996,
6 and it was finally published in 1999, and that is only
7 one time.

8 And as the previous speaker, Ms. Leonard,
9 mentioned, there is really no, there should be no limit,
10 and you've gotta look at, again, the programs. Programs,
11 programs, programs. We have absolutely nothing against
12 that you measure the programs. If there's no programs,
13 and you have a hundred percent category compliance order.

14 So with that mention I really request that the
15 Office of Local Assistance, as their logo says, try to
16 help the local government, they ought to conduct a,
17 really a workshop with a working group -- not with a
18 working group, but with the local government explaining
19 obviously how to use the guidelines -- and basically so
20 conducting a workshop for the local government and going
21 over the contents of this document which is now about
22 almost 120 pages long; how to use it; and after that,
23 follow that with a public review comment period, and
24 before that options.

25 Hopefully after this I would be able to speak

1 next time I come before you.

2 BOARD CHAIR MOULTON-PATTERSON: Thank you.

3 BOARD MEMBER JONES: Madam Chair.

4 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

5 BOARD MEMBER JONES: Mr. Mohajer, I just have a
6 couple of issues.

7 MR. MOHAJER: Yes.

8 BOARD MEMBER JONES: Number one, I don't want
9 to, because this is just a discussion item, but this
10 diversion guide has been on the road, has been out on the
11 street for eighteen months. The diversion guide got
12 changed very little as a result of this, it's the
13 certification form that got changed.

14 But it seems to me that I have a copy of a
15 letter in my files that was written by the task force
16 that wanted to review the work of the group.

17 Now, you know, it's real easy to sit there and
18 say that local governments weren't involved, but we do
19 have, I know we have a letter that says, you know, go
20 ahead, knock yourselves out on the disposal guide, we'd
21 just like to be able to review it.

22 And, you know, I resent the implication that
23 local governments weren't at the table, they were
24 definitely invited to the table.

25 MR. MOHAJER: If they were invited --

1 BOARD MEMBER JONES: And I'll give you a copy of
2 the letter.

3 MR. MOHAJER: Well what I mentioned, at no time,
4 at no time, I'm standing before you, at no time did any
5 of the Los Angeles County jurisdiction that I know of on
6 the task force were asked to participate, and I stand by
7 that.

8 BOARD MEMBER JONES: And I stand by us saying
9 whoever wants to participate, let us know. It was at a
10 Board meeting, and we had no response.

11 MR. MOHAJER: We even put it in writing. Mr.
12 Jones, we put it in writing that we'd like to participate
13 and no response, other than pursuant to section such and
14 such of the Public Resources Code and we got your letter
15 regarding that.

16 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
17 Mohajer. And I apologize if local government feels
18 slighted on that, because I don't believe it was the
19 Board's intent to do that at all.

20 And as I understand it, the guide was originally
21 developed to make it easier for local government so they
22 wouldn't have to hire consultants. And I'm really sorry
23 that local government feels that way. Sondra Lee and,
24 followed by Clarence Geick.

25 MS. LEE: Good evening, Madam Chair and members

1 of the Board. I would also like to make just a few
2 general comments about the diversion study guide and the
3 revised base year certification request form.

4 I originally spoke on this item or addressed
5 this item with the Board at the workshop that was held in
6 Diamond Bar at the end of January, and did ask if the
7 local governments would have an opportunity to comment on
8 the guide prior to its acceptance. So I did watch the
9 Waste Board site and wait for the agenda item to be
10 posted.

11 Upon reviewing it, I was struck by the
12 complexity of the guide and also the certification form.
13 When I had made comment on it in January, Board member
14 Jones had made a statement about the fact that you could
15 drive a bus through the holes that were in the guide in
16 its current state. Surely those holes have been closed.

17 I also feel that it's constructively prohibited
18 local jurisdictions from being able to engage in a waste
19 diversion study without the assistance of a consultant.

20 The City of Monrovia has invested to date
21 \$30,000 in conducting its waste study. And it would seem
22 that if this base year certification form is approved as
23 submitted, that we would need to invest considerably more
24 money to get our data up to par for the Board to review
25 it.

1 I would contend that there are jurisdictions out
2 there that engage in waste studies to cash in on source
3 reduction as a means of meeting the waste diversion goals
4 of 939.

5 I would also contend that there are
6 jurisdictions out there that have actively implemented
7 programs to meet those diversion guidelines, and also
8 engaged in waste studies to augment that diversion.

9 The City of Monrovia initiated the study to
10 identify recycling and diversion that our haulers claimed
11 they had no documentation to support. And with that
12 trust that they weren't communicating the truth to us, we
13 engaged in that study.

14 I would contend that if this item follows in the
15 course that it has been drafted in, that you will find
16 more local jurisdictions opting to engage in other
17 diversion activities like exclusive franchising and MRF
18 processing in lieu of more permissive programs that would
19 allow a mix of diversion to go on in the market.

20 I would hope that that is not the intention of
21 the Board, and would see that that is not a course that
22 we want to engage in. However, the doors are being
23 closed and that's unfortunate. Cities are actively
24 trying to -- and I can't make a blanket statement, I
25 don't know what the Board has seen before them as far as

1 waste diversion study submissions, all I can speak to is
2 Monrovia's particular situation; and when I make this
3 statement I make it as a personal statement.

4 I think that all of the money that has been
5 invested in educating the public to source reduce and
6 divert and recycle goes out the window when you shift to
7 a MRF processing system. That's money down the drain.

8 And Monrovia has actively tried to work with its
9 haulers to come up with alternates to closing that door
10 on competition in the market. But that door's closing.

11 And I would look to the Board to keep that in
12 mind when they make the decision on this diversion study
13 guide. I would also reiterate, Mr. Mohajer's request
14 that this diversion study guide be submitted to local
15 governments in the form of workshops for direct comment.

16 Thank you.

17 BOARD CHAIR MOULTON-PATTERSON: Thank you.

18 Clarence Geick.

19 MR. GEICK: My name is Clarence Geick, and I'm
20 on the L.A. County Solid Waste Management Task Force. I
21 will not take anymore of your time in redundancy over
22 what's been repeated and repeated and repeated.

23 I do want to underline one item though. I think
24 it would be, in my opinion, a very wise item for the
25 Board to set a public hearing date, a drop dead date at

1 the end of it, ensure that the majority of the cities and
2 counties and jurisdictions know about the latest revised
3 document, and go with it.

4 Thank you.

5 BOARD CHAIR MOULTON-PATTERSON: Thank you.
6 Thank you very much. And I certainly do want to thank
7 the people who did participate in this. And again I want
8 to say that in no way did we want to delete local
9 government's participation. And thank also the Board
10 members.

11 Is it the Board's pleasure to discuss this among
12 the Board now? I wanted to make sure that we did hear
13 the public since they had waited, and we can go ahead and
14 finish this since we're so close if you'd like that?

15 Mr. Jones?

16 BOARD MEMBER JONES: I just, I wanted to, we're
17 not even going to vote on this today because this was
18 going to be the meeting for the discussion, and then next
19 month I think it's on the agenda for the actual
20 consideration.

21 Just a couple of items. A lot of people were
22 here this morning that had left during the day, but I
23 know from the whole Board, and I think I can say
24 especially from Mr. Eaton and myself, we want to thank
25 Allison Burlyn, David Langer, the other young lady that

1 was in Langer's shop that took care of the southern Cal
2 meetings, Eugene Sing, Jim Greco, Mark White, Joan
3 Edwards -- I'll give you this list so you don't have to
4 go nuts -- Joan Edwards, Rick Best, Keith Thomsen, Dr.
5 Dr. Steven Fraites, Paul Ryan, Michelle Leonard; and
6 especially our staff, Schiavo, Cara Morgan, Elliott,
7 Heidi Sanborn from the chairman's office, Tammy, Lisa,
8 and Dorman from ours, and other advisors.

9 It was an important process that we went
10 through. We had a lot of debate and I, I just want to
11 address a couple of the issues that came up. I didn't
12 say a bus could drive through 'em, I said a garbage truck
13 could drive through it and it could drive through it
14 directly to the landfill and still get 60 percent
15 diversion credit. Just to keep the record straight.

16 I'm not going to have a whole lot of discussion
17 on this. But I do want people to understand, staff went
18 over it quickly. I think extrapolation needs to happen,
19 but not extrapolation that uses numbers like 105 pounds
20 per cubic yard of garbage, without looking at compacted
21 waste.

22 That extrapolation, when we see numbers of 18.58
23 pounds per person per day without an explanation as to
24 why, when it's a jurisdiction that's got a 50/50 mix,
25 that's an unacceptable abuse of the program.

1 They talk in letters about bean counting. This
2 is actually a case where, through extrapolation and
3 through new base years, the beans have been counted
4 through some kind of a mystical method and you'll never
5 have to do a program. Why would anybody do a program
6 that's already at 65 percent?

7 At least those people that provide programs
8 would have a pretty good argument with the jurisdiction
9 as to why not spend more money?

10 So the intent of this has always been to try to
11 keep the playing field as level as possible. And, and
12 while people may not like that, that's what it takes when
13 you sit up on a Board like this is to try to keep this
14 thing level.

15 And eighteen and a half pounds per person per
16 day by extrapolated systems that show in excess of fifty
17 percent diversion, and ten pounds per day on
18 non-extrapolated systems that show 41 percent diversion
19 are pretty clear evidence as to a trend that gets
20 jurisdictions to compliance of 50 percent without doing
21 anything more than counting pallets 37 times each. When
22 a pallet starts getting a value of 800 pounds per pallet,
23 then we've made a mistake.

24 So I'll look forward to the meeting in May or
25 in, next month, April. And I do, one of the, I mean I

1 think that all of the cities and counties should have a
2 copy of this, and I think they probably do. The staff's
3 nodding their heads that they do.

4 So they need to be able to comment at the next
5 Board meeting, because I don't think any Board member
6 here wants to keep this moratorium going longer than it
7 has to for new base years, and we can't get to those
8 until we get through this.

9 So I appreciate it. And I just want you to
10 know, you were, you asked to make sure that local
11 governments were represented, and the requests were out
12 there. And while we can all have different points of
13 view, the requests were out there.

14 BOARD CHAIR MOULTON-PATTERSON: Thank you, Mr.
15 Jones. So this is on the agenda for next month. At that
16 time if we adopt it would we be lifting the moratorium at
17 the same time? I keep getting questions from the ones
18 that have base years.

19 Ms. Bruce?

20 INTERIM EXECUTIVE DIRECTOR BRUCE: I think we
21 would like to have some direction from the Board, as we
22 know it's coming forward next month for the consideration
23 and approval. If that happens, when would you like us to
24 look to moving other, lifting the moratorium so new base
25 years could come forward?

1 BOARD CHAIR MOULTON-PATTERSON: Well at that
2 time I would think if it's adopted. Is that --
3 Mr. Paparian.

4 BOARD MEMBER PAPARIAN: Yeah, I mean I still
5 have some hanging issues out there so, you know, I'm fine
6 with saying when it's adopted certainly the moratorium is
7 lifted, but I'd like to see some issues addressed.

8 INTERIM EXECUTIVE DIRECTOR BRUCE: So what I
9 hear you saying is we would bring it forward next month,
10 and then the following month we would, if it is approved
11 after all your issues are alleviated, then we could then
12 bring forward an item that would lift the moratorium.
13 We're getting a lot of questions also, and we
14 just want to clarify that for you.

15 BOARD MEMBER JONES: Madam Chair.

16 BOARD CHAIR MOULTON-PATTERSON: Mr. Jones.

17 BOARD MEMBER JONES: You know, I wouldn't
18 mind -- if we had this item in April, I wouldn't mind
19 convening a special Board meeting a few, you know, once
20 the notice is given, ten days after that to take 'em all
21 on. I mean, but that way if there's issues that we're
22 not done with, you know, rather than have a whole bunch
23 in the queue right here ready to come forward that day
24 and find out we're still not there.

25 INTERIM EXECUTIVE DIRECTOR BRUCE: I understand.

1 BOARD MEMBER JONES: But I mean I have no
2 problem, I don't know how the others would feel, but I
3 wouldn't have any problem with meeting a couple weeks,
4 days later, or even a week later.

5 BOARD CHAIR MOULTON-PATTERSON: That would be in
6 the month of April. That would be nice because we are
7 getting lots of questions.

8 So do you have enough direction?

9 BOARD MEMBER PAPARIAN: Madam Chair.

10 BOARD CHAIR MOULTON-PATTERSON: Yes, Mr.
11 Paparian.

12 BOARD MEMBER PAPARIAN: There were several items
13 that came up during the briefing workshop last week that
14 I wanted to reiterate that were concerns of mine.

15 We discussed the potential of using a 95 percent
16 confidence level as opposed to a 90 percent confidence
17 level in terms of the number of surveys that would have
18 to be conducted in an extrapolation method, and I would
19 like to pursue that 95 percent confidence level. I think
20 that's consistent with requirements on us to be as
21 accurate as we possibly can.

22 I'd also like to explore a couple of other
23 things. I think Mr. Best raised a number of excellent
24 points, and I'd like to explore some response and
25 hopefully incorporation of some of those things into the

1 ultimate diversion study guide.

2 It looks like you want to respond to that before
3 I go on?

4 MR. SCHIAVO: Yeah, I just would like to clarify
5 that. Mr. Best, towards the end of his presentation, did
6 state that those items were included in the guide, but
7 what he wanted was a separate policy document that kind
8 of, that just brought those items or those policy
9 statements out separately from the guide. So he wanted
10 those policy statements extracted from the guide, and he
11 did acknowledge those were already included in the
12 guide. So that's a little different issue there.

13 BOARD MEMBER PAPARIAN: Thank you for that
14 clarification.

15 And then the other thing that we talked about
16 last week was perhaps conditioning the use of
17 extrapolation on the existence of programs. And we
18 haven't had time to explore that today, but I'd like to
19 see that as an option to consider as we consider the
20 diversion study guide.

21 Another item that we discussed was, as I
22 understand it, with the new form that's being used you'll
23 be able to fairly easily determine the extrapolation
24 numbers and the non-extrapolation numbers.

25 What I'd like to explore is if the difference

1 between those two is significant, perhaps more than four
2 or five percent, then we would do something additional,
3 and perhaps the additional thing would be spot checking
4 some of the surveys and other materials that were
5 presented so that we could have confidence that we're not
6 seeing the sorts of, you know, way out of line numbers
7 that Mr. Jones was citing earlier.

8 Those are the items I wanted to bring up, Madam
9 Chair.

10 BOARD CHAIR MOULTON-PATTERSON: Anything else on
11 item 16 for this meeting?

12 BOARD MEMBER JONES: Just so, we will have the
13 discussion about how we're going to address pallets; and
14 we also have to have the discussion from a policy
15 standpoint that day about when a school district
16 eliminates carrots because nobody eats them, and then
17 they call that source reduction, or they go from a one
18 size container to another size container and they call
19 that source reduction. I mean it's, it's better than
20 T.V., I gotta tell ya'.

21 BOARD CHAIR MOULTON-PATTERSON: I'd like to
22 adjourn the meeting in the memory of Dick Smith who
23 passed away last evening. He held the industry seat for
24 Southern California on the previous Board, the old Board.
25 And I would just like to adjourn the meeting in his

1 memory.

2 And thank you very much for your patience.

3 We'll see you tomorrow at 9:30.

4 (Thereupon the foregoing was discontinued at
5 6:54 p.m.)

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